PROTECTIVE LEGISLATION
FOR SHOP AND OFFICE EMPLOYEES

Protective Legislation
for Shop & Office Employees

BY

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PREFACE

THE purpose of this book is threefold: firstly, to give in a simple manner an outline of legislation at present in force by means of which the working conditions in offices, shops, warehouses, and other commercial establishments are regulated, and of the administration of such legislation; secondly, to survey the existing situation in the places named, with the object of ascertaining how far the present labour laws particularly concerning them fall short of serving admitted needs; and, thirdly, to suggest the amending or new legislation most urgently necessary, so that non-manual and commercial employees shall be afforded in principle and in practice not less favourable treatment than the best applicable to or contemplated for industrial workers.

Since the first edition of the work was published, just over two years ago, several changes have been effected in the then existing law. Among the new Acts which must be specially mentioned are the consolidating Children and Young Persons Act, 1933, and the Shops Act, 1934. The latter enactment, notwithstanding its defects and shortcomings, ranks as one of the most important contributions to the reform of shop life. It regulates the hours of employment of four hundred thousand young people, and

requires arrangements to be made for the health and comfort of about two million employees of all ages in the distributive trades of Great Britain.

These legislative changes, and others of a minor character, have made necessary this revised edition. Parts of the book have been entirely rewritten, and the whole work is greatly extended as a result, but its form and structure are similar to those of the first edition.

Every effort has been made to ensure accuracy of statement, and advantage has been taken of this opportunity to bring the book completely up to date in all respects, so that it shall be a reliable guide on the matters dealt with in its pages.

J. H.

MANCHESTER
January 1935

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CHAPTER I

ORIGIN AND COURSE OF SHOPS LEGISLATION

I. The Cry for Reform

Extreme caution is the characteristic feature of British labour legislation. The protection of the worker has been built up by painfully slow efforts and in patchwork fashion, and though Government Blue Books and reports may unfold terrible stories of the blasting of human lives by overwork and unhealthy conditions of employment, enactments are framed often in the spirit and the letter of the permissive 'may' instead of the compulsory 'shall.' The very weight of evidence contained in such documents and in the facts of everyday life of itself seems to paralyse the public mind, and affects those upon whom falls the responsibility of analysing the facts and propounding remedies. And, strange to say, the ill-conditioned workers who should demand a substantial measure of reform frequently become so inured to their conditions as to constitute themselves the greatest stumbling-block to such of the progressive forces as are endeavouring to achieve or to apply reforms in industrial life.

Distributive and clerical employees are among the classes of workers who enjoy only a small measure of legal protection, although their grievances are many-sided and serious. The cry of shop assistants

for fewer hours of labour has been heard for several generations. Mr and Mrs Sidney Webb, in their *History of Trade Unionism*, quote a report from *The Sheffield Iris* of September 27, 1825, to the effect that the shop assistants of Sheffield had combined to petition for early closing. The same writers tell us in their account of the rise of the Owenite Grand National Consolidated Trades Union at the beginning of 1834 that not only were many varieties of manual workers attracted to that remarkable organization, but shop assistants also were drawn into its ranks. Other historical documents and newspapers of the period suggest to the student that the men behind the counter looked to this new movement of all trades most of all for support of their constantly reiterated claim to greater leisure in the evenings. We find, for instance, in its issue of August 21, 1825, the London *Observer* reported that the shopmen to the linen-drapers, silk-mercers, hosiers, and lacemen of London had submitted an address to their employers, praying that fixed and rational hours should be appointed for their attending to business, as, from the then present system of labour, they were debarred from all intellectual improvement or amusement. What they required was that business might terminate on Saturdays at 10 P.M. from March 25 to September 14, and at 9 P.M. from September 15 to March 24; and on the other working days in each week at 8 P.M. during the six summer months and at 7 P.M. during the six winter months. The newspaper stated that there were twenty thousand persons in the above-mentioned class of employment in the Metropolis, and expressed the view that a more

temperate or proper request could not be made than that contained in the address.

Again, in 1839, nearly fifteen years later, the London shopmen's case was championed by a writer under the *nom de plume* of "Philanthropos," who set forth in *The Linen Drapers' Magna Charta; or, An Easy and Pleasant Mode of Diminishing Shopkeepers' Confinement*, that:

> Only can assistants brave the gusts of ill-fortune by demanding that mental superiority which will provide a livelihood anywhere or everywhere. Let not employers be enraged if assistants think and speak for themselves. . . . Who shall say that sixteen or eighteen hours of toil is not an infringement of the laws of nature? . . . We assistant drapers think not to form a system which shall dissipate sin and create universal virtue, but we will try how, by banding together, we can rescue ourselves from debility of body, the iron bondage of the animal propensities, and the cruel exactions of society. From a practical point of view the 200,000 assistants whose expenses amount to twelve million pounds, and who thus support largely the revenues of the State, have a reason to seek protection and representation from the Government. All the interference we seek from the Government is a law making it compulsory to close drapers' shops at seven. But though circumstances prevent our rulers providing for our welfare, will not the diseased lungs, which have their origin in confinement in a shop from eight in the morning till eleven at night, cause the subjects of our severity to unite and form a moral force which shall extinguish such cruelty?

The same writer pointed out that assistants resident in the grand thoroughfares of the town who belonged to literary societies could manage to obtain entrance to the class- or lecture-room before the business of such institution was closed. In the sultry

evenings of summer those employed in the leading houses could get sometimes an hour's grace before eleven. Such was the liberality awarded to about ten thousand metropolitan assistants. But the remainder, equally large, could tell a tale, for their employment rarely ceased until after nine in winter and eleven in summer. Such protracted labour was cited as the cause of a very high death-rate from consumption.

It is a grave reflection on our social arrangements that seventy-five years after "Philanthropos" tabled his serious charges and uttered his eloquent but unsuccessful plea for legal interference to remedy them writers and speakers were agitating for the removal of conditions equal in their severity and consequences to those about which he complained. As late as 1908 it was the fact that shop assistants, broadly classified in three groups, worked respectively from 60 to 65, from 69 to 74, and from 75 to 85 hours per week. In the following year it was recorded that a very large number of London shop assistants laboured practically all their waking hours on five and six days of the week, and in many cases Sunday labour constituted an additional physical burden to be borne by the already cruelly overworked assistants. Drapery shopgirls left off work at about 10 o'clock on three nights of the week, at 2 P.M. on Thursdays, at 11 P.M. on Fridays, and at midnight on Saturdays. Many thousands of shop assistants, male and female, worked as many as 90 hours a week. Similar conditions prevailed in the provinces.[1] The devastating results upon the health of the workers

[1] *Working Life of Shop Assistants*, Hallsworth and Davies (1910).

directly affected, as well as upon the community generally, had been illustrated at Government inquiries and by various forms of publicity conducted through the trade unions of shop assistants with the aid of influential friends. Nevertheless, the evils of excessive toil, carried on in many cases under bad conditions as regards ventilation and sanitation, persisted substantially right up to the outbreak of the Great War in 1914, such check as was administered being mainly in sections of the distributive trades where trade union organization of a militant and enduring character had been established.

II. Legislation before the War

Public health legislation, to some extent covering shop assistants among others, preceded by at least a decade the first Act specially concerning shops and those employed in them. The earliest Shops Bill was introduced in 1873, but made no progress, and it was not until 1886, thirteen years later, that the first instalment of shops legislation was achieved. This took the form of a temporary measure, continued annually by Expiring Laws Continuance Acts for about six years, which regulated the limit of working hours of young persons under eighteen years of age to 74 per week, including meal-times. The Act, according to the report of the Select Committee on Shop Hours of 1892, "remained generally unenforced and even to a great extent unknown." It was renewed in 1892 in permanent form and its administration thrown upon the local authorities. Amending Acts followed in 1893 and 1895, the first-named

dealing with the salaries of inspectors, and the second remedying certain defects disclosed as the result of a legal decision. Then came the Seats for Shop Assistants Act, 1899, and a Closing Order measure passed as the Shop Hours Act, 1904, both of which were substantially re-enacted in the Shops Act, 1912. The Shops Act, 1911, providing for a weekly half-holiday and meal-times for shop assistants, and the closing of shops for a weekly half-holiday, was passed in attenuated form towards the end of that year, but did not come into operation, being included, along with the previous Acts, in the consolidating Shops Act of 1912. Finally, an amendment Act was passed in 1913, applicable to premises for the sale of refreshments, which by the election of the employer substitutes certain provisions contained in Section 1 for corresponding provisions in the Act of 1912.

The 1911 Act was merely a shadow of the Government Bill out of which it emerged. It is worth recalling that for a substantial part of the Parliamentary Session this Bill was side-tracked to make way for the later stages of the National Insurance Bill, and in order that it might be put through in the last week of the Session some of its principal clauses were deleted. Among the more important proposals thus sacrificed to the exigencies of Parliamentary business was the limitation of working hours. In the Bill a maximum of 60 per week, exclusive of meal-times, had been proposed, though the shopworkers' organizations desired to make the 60 hours *inclusive* of meal-times, and thus to reduce the net working period to about 52 hours per week. Having regard to the evil results of the unregulated working week of

70, 80, and even 90 hours or more of many assistants, often in close confinement, regarding which voluminous evidence had been tendered repeatedly before Government Committees, the failure to carry into law the main feature of the Bill constituted a gross betrayal of the interests of a large and deserving section of the community. It is surely ironical that a Bill designed to *prevent* the continuance of working conditions gravely inimical to healthy life should be jettisoned in favour of another measure brought in to mitigate financially the *results* of adverse working and social conditions.

When the consolidation of the Shops Acts of 1892 to 1911 took place in 1912 a golden opportunity was presented, of which, unfortunately, advantage was not taken by Parliament, to amend the absurdly high maximum of 74 hours per week, including meal-times, permitted in the case of young persons under eighteen years of age, and to make due provision for health and safety, instead of the worker being left at the mercy of the employer, except in so far as the action of the latter might be modified by the occasional check imposed by the local authorities under the Public Health Acts. Another omission was the failure to vest in the local authorities charged with the administration of the Shops Act power to enforce also the Truck Act, 1896, in shops. It is true, of course, that in two very important matters the law was a vast improvement upon what had previously obtained—(*a*) the institution of a compulsory half-holiday, and (*b*) allotted times for meals. It is also true, as will be explained subsequently, that the 1913 amendment Act, within the narrow occupational

confines of the measure, embodied the principle of the definite limitation of working hours of persons eighteen years of age and over, but only in a very half-hearted and niggardly manner.

Prior to the War, then, the main code of law peculiarly applicable to shop assistants was to be found in the Shops Acts of 1912 and 1913, the provisions of which were supplemented by the Truck Act, 1896, the Employment of Children Act, 1903, governing those under fourteen years of age, and certain provisions of the Public Health Acts.

III. Legislation during and after the War

A fresh stage in the history of legislation was reached in 1916. Under stress of war circumstances the Government contrived to pass into law in the course of a few days or weeks measures radically affecting the industrial, commercial, and social life of the community, which could normally have been attained only by years of agitation. 'Orders' of various kinds were issued before the average person was aware of any movement to make them. Parliament thus broke down the old-established order of things and provided an argument for the post-War period that if the legislative machine could be speeded up for the needs of war it could be accelerated in a similar manner for the enactment of measures of social importance in times of peace. Not all the legislation of war-time was good from a Labour point of view. On the contrary, some of it was distinctly bad. But shop assistants did gain a measure

of reform as the result of Government interference with the closing of shops. In September 1916 the Home Office issued a communication to certain trade organizations intimating that the Government were considering a proposal for a general early closing of shops during the winter months in order to economize coal. It was stated that, owing to the enlistment of a large number of miners, the output of coal had fallen off to such an extent that it was becoming very difficult to supply the increased amounts required for the production of munitions of war of all kinds for the Allies and for the essential export trade, and that great economy would be necessary if the essential requirements of the country and the Allies were to be met. It was added that the Government were aware that since the outbreak of war there had been a very marked tendency on the part of shopkeepers to close voluntarily at an earlier hour—due, no doubt, largely to the fact that the lighting restrictions which it had been necessary to enforce had had the effect of greatly reducing the amount of shopping done at night; and therefore the Government had reason to believe that a general measure of early closing would be welcomed by a large number of the shopkeepers of the country.

The communication further explained that the proposal which the Government had under consideration was that all shops, with one or two necessary exceptions, should be required to close at 7 o'clock, or possibly earlier, during the winter on days other than Saturday, and at 9 o'clock on Saturday. Accompanying the communication was the draft of an Order embodying the Government's proposal, on

which the observations or suggestions of the trades interested were sought, and particularly on the question whether it would be possible during the winter to make the hour of closing 6 or 6.30 o'clock on days other than Saturday.

The proposal of the Government, on the whole, met with a favourable reception, some of the traders' organizations supporting the suggestion of the earlier closing hour of 6 P.M. made by the trade unions representing shopworkers. Some support, however, was given to a suggestion that there should be *two* late nights—Friday and Saturday. This was adopted by the Government, and the first Order, issued on October 24, 1916, provided for the closing of shops not later than 8 o'clock on Friday, 9 o'clock on Saturday, and 7 o'clock on every other day (subject, of course, to an earlier hour on the day of the half-holiday). Two days later opposition to that part of the Order regarding 7 o'clock closing was offered in the House of Commons, as the result of which the Home Secretary yielded, and on October 27, 1916, he issued an amended Order (No. 739), substituting 8 o'clock as the closing hour for that of 7 o'clock embodied in the original Order on days other than Saturday and the day of the weekly half-holiday, and not later than 9 o'clock on Saturday.

The Order operated, in the first instance, from October 30, 1916, to April 30, 1917. By its general application it effected a revolution in those branches of the retail distributive trades where the jealousies of traders engaged in cut-throat competition and the carelessness of the public together contributed to unduly prolonged hours of work, with disastrous results

alike to the health of those employed in shops and to the community at large. It was no doubt true that many shopkeepers, by voluntary action, had more or less anticipated the requirements of the Order, particularly in the first part of the week. But there were also large numbers of shopkeepers doing business at late hours on most nights. For instance, prior to the Order it was found that the latest closing time was frequently 10 o'clock, and in some cases 10.30 and 11 o'clock. Fruitless efforts to secure reform by the earlier Acts for regulating the closing of shops had been frequently the subject of discontent, not only among the assistants, but also among many kindly disposed and enlightened shopkeepers. Unfortunately these were outnumbered by the unscrupulous competitors who, in their eagerness to snatch "the crumbs of the trade," would keep open till the streets were emptied.

The Shops Act of 1912, administered by the local authorities without a strong central power to co-ordinate their practice, and depending too much upon the will of the shopkeepers, who so often feared each other, had failed to yield satisfactory results so far as earlier closing was concerned, and the Order of the Government instituting *general* earlier closing constituted an admission of the inadequacy of the existing law.

Another Order was made on April 24, 1917, and a somewhat similar one for Scotland on April 26, 1917. These Orders were renewed and amended at various intervals throughout and beyond the War period, and ultimately were embodied in the Shops (Early Closing) Act, 1920. An amending Act was

passed in August 1921 for the purpose of extending the hours during which fruit, table-waters, sweets, chocolates, or other sugar confectionery, or ice-cream might be sold to the public. In the original instance it was provided that the Acts should continue in force until December 31, 1921, but, as a matter of fact, they were continued under successive Expiring Laws Continuance Acts until 1928, when, as the result of a Departmental Committee of Inquiry set up by the Government in March 1927, which reported [1] in the following November in favour of permanent legislation for the general early closing of shops, the Shops (Hours of Closing) Act was passed (August 3, 1928). This Act repealed the 1920 and 1921 Acts and made certain changes regarding the closing hours prescribed by those Acts. It also repealed and amended in minor details certain parts of the principal Shops Act of 1912. Substantially, however, the principal Act, providing for the closing of shops on the weekly half-holiday, the powers of the local authority in respect to the making of Orders for local closing hours earlier than those specified under the 1928 Act, and the conditions of employment for shop assistants and young persons, was left unaltered and unprejudiced.

The Act of 1928 does not extend to Northern Ireland or to the Irish Free State. This also is the case as regards the next following enactment relating to shops, passed on August 1, 1930, and in operation from January 1, 1931, providing for the compulsory closing of hairdressers' and barbers' shops on Sundays, and the Shops Act, 1934, referred to below.

[1] Cd. 3000.

Several attempts were made between 1919 and 1934 to secure statutory limitation of working hours in shops. An amending, extending, and consolidating private Bill presented in July 1924,[1] which did not reach the second reading stage, sought not only a limitation of the hours of labour, but a wide range of reforms regarding conditions of employment and the closing of shops. Another effort was represented by a Bill [2] promoted by the two principal trade unions of distributive workers, which was given a second reading on March 21, 1930. While this Bill made no further progress, it led to the appointment of the Select Committee on Shop Assistants on May 8, 1930, with very wide terms of reference. A Special Report [3] was issued from the Committee on July 30, 1930, and the final Report [4] in three volumes on September 18, 1931.

The Committee made a number of important recommendations regarding new legislation for regulating normal hours of employment and overtime of shop assistants, for strengthening the existing law concerning the health and welfare of all those employed in the distributive trades, and for more effective supervision and enforcement of the Shops Acts. The Government were in no hurry to implement the recommendations, though they were frequently interrogated as to when a Bill would be presented for that purpose. Because of the delay a private Bill,[5] sponsored by the distributive workers' trade unions, was presented on November 25, 1932. This Bill was rejected on second reading on March 17, 1933.

[1] Bill 219. [2] Bill 37. [3] No. 176.
[4] No. 148. [5] Bill 11.

Another Bill,[1] in exactly the same terms, was introduced on November 24, 1933. A place was obtained for this Bill for second reading on February 9, 1934, but actually it was not reached. By this time, however, the Government had become alive to the need for action, and accordingly produced their own long-delayed Bill. Owing to the pressure of other business in the House of Commons, the Bill[2] was introduced in the more peaceful Chamber of the Lords on February 22, 1934.

Subsequently the Bill was amended considerably. It finally passed into law on July 25, 1934, and came into operation on December 30, 1934.

The Act falls short of the Select Committee's recommendations in several respects. Most notable among its defects are the failure (*a*) to limit the hours of work of shop employees eighteen years of age and upward; (*b*) to require payment for the restricted overtime permitted to be worked by young persons between sixteen and eighteen years of age; and (*c*) to make provision for a central Government Department to supervise generally the administration by the local authorities of their duties under the Shops Acts.

Nevertheless, the new law marks a substantial step forward in the regulation of shop life, and its practical application should put an end to many of those evil conditions of work which have for so long disgraced the distributive trades and services of our country.

[1] Bill 24. [2] Bill 30.

CHAPTER II

THE SHOPS ACTS

I. General Description

As will be seen from the opening chapter, there are now five enactments relating specifically to shops and to shop assistants and other persons employed in or about the business of shops. A general description of the Acts is given in this section, followed in subsequent sections by a detailed explanation of the provisions made in regard to conditions of employment and the closing times of shops.

1. The Act of 1912

The Shops Act, 1912 (the principal Act), is applicable in Great Britain and, with certain specified modifications, in Northern Ireland and the Irish Free State.

It consists of twenty-two sections and five schedules. As regards *Great Britain*, several alterations have been made in the text of the Act. The third schedule was repealed, and replaced by the first schedule of the Shops Act, 1928, and certain other provisions relating to the closing of shops were also amended by that Act; Section 2 was repealed by the Shops Act, 1934, and new provisions were substituted therefor in that Act; Section 3 (1),

relating to seats for female assistants, was supplemented by a new provision contained in Section 12 of the Shops Act, 1934; and two provisions relating to expenses of borough and district councils respectively (in England and Wales) were repealed, and replaced by others in the Local Government Act, 1933, which came into operation on June 1, 1934.

The 1912 Act applies also seven sections of the Factory and Workshop Act, 1901, for the purposes of laying down the powers of inspectors and of dealing with offences under the Act.

Conditions of employment of shop assistants and young persons are contained, separated from other matters, in the first three sections, and, as regards assistants in shops in Northern Ireland and the Irish Free State in which the retail sale of intoxicating liquors is carried on, certain special conditions are provided in the fifth schedule.

The closing of shops on the day of the weekly half-holiday and on other days of the week is dealt with in Sections 4 to 12.

Enforcement is the subject of Sections 13 and 14, and Sections 15 to 22 are concerned with general matters and the application of the Act.

2. The 1913 Act

The Shops Act, 1913, is a short amending measure which has to be construed as one with the 1912 Act. Applicable in Great Britain and, with stated modifications, in Northern Ireland and the Irish Free State, it enables the occupier of any premises where refreshments are sold, whether licensed or other-

wise,[1] on his adoption of the Act, to substitute for the terms of Section 1 of the 1912 Act, as to shop assistants' weekly half-holiday and meal-times, *alternative* arrangements to apply to all persons [2] wholly or mainly employed on the premises in connexion with the business of selling refreshments, however they may be so employed. These conditions apply, therefore, not only to waiters, barmaids, and others who are employed in connexion with the serving of customers, the receipt of orders, or the dispatch of goods, but also, among others, to cooks and kitchen workers.

An employer who elects to adopt the Act must do so by the prescribed notice, and post it in a prominent position. The special arrangements are operative for a minimum period of one year from the date of adoption, and, if not withdrawn at the end of that period, continue for another year, and so on. If withdrawn, the employer again becomes subject to the provisions of Section 1 of the 1912 Act.

It should be clearly understood that the adoption of the 1913 Act by an occupier of refreshment premises is in substitution only of the provisions of Section 1 of the 1912 Act, and that all the other provisions of the latter Act continue to apply to the

[1] The 1913 Act does not extend to shops in Northern Ireland or the Irish Free State in which the business of the sale by retail of intoxicating liquors is carried on. For these shops special provisions were made previously in the fifth schedule of the 1912 Act.

[2] In the case of young persons in *Great Britain* to whom the provisions of the Shops Act, 1934, apply, Section 1 (1) (*a*) of the 1913 Act, allowing a maximum employment limit of 65 hours in any week, exclusive of meal-times, ceased to have effect from December 30, 1934, and is replaced by the provisions of the 1934 Act relating to maximum weekly hours of work.

premises mentioned, as do also, in *Great Britain*, those of the 1928 and 1934 Acts.

There appears to be no official information available showing the extent to which the 1913 Act has been adopted.

3. The 1928 Act

The Shops (Hours of Closing) Act, 1928, which was enacted to amend the law relating to the closing of shops and for purposes connected therewith, is applicable in Great Britain, but not in Northern Ireland or the Irish Free State. It has to be construed as one with the Acts of 1912 and 1913.

Consisting of ten sections and four schedules, this Act embodies in permanent form the principle of general closing hours fixed by statute, as distinct from local closing hours fixed by Orders under the 1912 Act, but it leaves intact the power of a local authority, by an Order made and confirmed under the 1912 Act and subject to the limits imposed by that Act, to fix local closing hours earlier than the general closing hours fixed by or under the 1928 Act. In this connexion it should be noted that a local closing hour cannot be fixed earlier than 7 o'clock in the evening on any day of the week other than the day of the weekly half-holiday. As regards sweet shops in Great Britain, however, the earliest hour of closing which may be fixed locally appears to be 8 o'clock.[1]

4. The Act of 1930

The Hairdressers' and Barbers' Shops (Sunday Closing) Act, 1930, is applicable in Great Britain,

[1] High Court decision in Kenyon *v.* Street (1930).

but not in Northern Ireland or the Irish Free State. As its title indicates, this brief measure provides for the compulsory closing of hairdressers' and barbers' shops on Sundays, subject to certain exemptions.

5. The Act of 1934

Applicable in Great Britain, but not in Northern Ireland or the Irish Free State, the Shops Act of 1934 was passed with the principal objects of (*a*) regulating the hours of employment of young persons under eighteen years of age employed about the business of wholesale or retail shops and warehouses, or employed elsewhere in connexion with wholesale or retail trade or business, and (*b*) making better provision in shops and warehouses for the health and comfort of shopworkers in general.

The Act consists of eighteen sections and one schedule.

Sections 1 to 9 comprise the new provisions relating to the employment of young persons. These, in *Great Britain*, replace entirely the inadequate and out-of-date protection given formerly in Section 2 of the 1912 Act, which limited the hours of employment to 74 per week, including meal-times, and Section 1 (1) (*a*) of the 1913 Act, limiting hours of employment to 65 per week, exclusive of meal-times, in refreshment premises where that Act has been adopted, ceased to have effect from December 30, 1934, in the case of young persons to whom the hours of employment provisions of the 1934 Act apply.

Sections 10 to 12 have reference to the health and comfort arrangements for all shopworkers. The provisions made respecting ventilation and sanitary

conveniences are in addition to and not in derogation of provisions covering the same ground in the Public Health Acts; but those relating to the temperature in and the lighting of shops and to the facilities for washing and the taking of meals are new.

The supplementary sections, 13 to 18, deal with the enforcement, interpretation, and application of the Act.

The schedule sets out the temporary modifications in working hours during the transitional period, which ends on December 27, 1936.

II. Definitions and Scope

In order that a proper understanding of the Acts may be obtained it is important that the meaning of certain expressions used therein and the scope of application shall be made clear, so far as this is rendered possible by statutory definitions, decisions of the courts, and official opinions and explanations.

Shop. The expression 'shop' is defined in Section 19 of the Shops Act, 1912, for the purposes of that Act [1] as including any premises where any retail trade or business is carried on, and 'retail trade or business' is defined as including the business of a barber or hairdresser, the sale of refreshments or intoxicating liquors, and retail sales by auction, but as *not* including the sale of programmes and catalogues and other similar sales at theatres and places of amusement. The following are further examples of retail trade:

[1] In respect to Section 2 there is an extended definition, as explained later.

Sale of goods across the counter.
Trade by order through post, telephone, travellers, or otherwise.
Receiving orders for and effecting sale and delivery of articles made by the employer.
Sales from stalls in public markets and elsewhere.

On the contrary, the following are instances of what is *not* regarded as retail trade:

Taking and executing of orders in repairing, laundering, cleaning, dyeing, and other businesses where no articles are sold.
Business of servants' registry offices.
Letting out articles on hire, where there are no sales.

Nothing in the Shops Act, 1912, applies to any fair lawfully held or to any bazaar or sale of work for charitable or other purposes from which no private profit is derived.

In the Home Office *Memorandum on the Shops Acts*[1] 'retail trade or business' is described as the sale of goods in small quantities to the public, distinguished from 'wholesale trade,' which is the sale of goods in bulk or large quantities to traders who sell in smaller quantities to the public. Those parts of wholesale premises in which retail sales are conducted are also shops.

The definitions and examples given above apply also for the purposes of the Acts of 1913, 1928, and 1930.

[1] Second edition, 1913.

For the purposes of Section 2 of the 1912 Act, relating to the hours of employment of young persons under eighteen years of age, which has effect now only in Northern Ireland and the Irish Free State, there is an extended definition of 'shop,' by which the provisions of the section apply not only to retail shops, but also to wholesale shops, and to warehouses in which assistants are employed for hire, in like manner as if they were shops within the meaning of the Act.

The Shops Act, 1934, for its own purposes, has given a fuller meaning to the expression 'shop.' It includes not only premises where any retail trade or business is carried on, but also any wholesale shop,[1] and any warehouse occupied for the purposes of his trade by any person carrying on any retail trade or business or by any wholesale dealer or merchant. Further, certain provisions regulating the employment of young persons about the business of a shop are extended to their employment in connexion with any retail trade or business carried on in any place not being a shop, and, accordingly, references to a shop are deemed to include references to the place in or from which the retail trade or business is carried on, and references to the occupier of a shop are deemed to include references to the person by whom the retail trade or business is carried on.

Shop Assistant. The expression 'shop assistant,' as interpreted by Section 19 of the Shops Act, 1912, means any person *wholly* or *mainly* employed *in* a

[1] The expression 'wholesale shop' means premises occupied by a wholesale dealer or merchant where goods are kept for sale wholesale to customers resorting to the premises.

shop in connexion with the serving of customers or the receipt of orders or the dispatch of goods. This definition includes as shop assistants persons who are usually otherwise described. For instance, when employed as stated above the following are shop assistants: shop-managers, cashiers in shops who receive money from customers, shop-walkers, clerks dealing with post orders, packers or dispatchers of goods, waiters and waitresses. The High Court has decided that a kitchenmaid in a restaurant kitchen, who does not go into the room where customers are served, is a shop assistant[1]; and that a potman at a public-house employed in putting up and taking down tables for customers' dinners, cleaning knives for the dinners, washing pots and glasses, and cleaning up the premises for customers is a shop assistant.[2] It was also decided by the Court that although waiters engaged in the residential part of a hotel, the primary object of which is to provide a residence for visitors, are not shop assistants, as such a hotel is not a shop, where a hotel contains refreshment rooms open to non-residents as well as residents, servants engaged directly or indirectly in serving therein are shop assistants.[3] A person was employed as a vocalist, pianist, and demonstrator to sell music or other goods as required at the shop of a firm of music publishers and entertainment providers. The ordinary course of business at the shop was for him and other employees to sing songs and then endeavour

[1] Melluish *v.* London County Council (1914).
[2] Prance *v.* London County Council (1915).
[3] Gordon Hotels, Ltd., *v.* London County Council (1916).

to sell copies of them to such of the public as were present. His main duty was to sell the music, though he had, no doubt, to persuade people to enter the shop by the attractiveness of his singing, but when once they were there his object was to get them to buy music. It was held by the High Court that a person so employed as described is a shop assistant.[1] Salesmen engaged partly in the shop and partly on a travelling round to customers are shop assistants only if the greater part of their time is spent in the shop. On the other hand, carmen, errand boys,[2] and others mainly engaged in delivering or securing orders outside are not shop assistants; and neither are counting-house clerks. The High Court has ruled that, though a grill-room which is supplied from a kitchen which forms part of a shop is itself a shop, a kitchen clerk who checks provisions is not a shop assistant.[3]

All the above-mentioned cases in the courts were decided in regard to the meaning of 'shop assistant' under the 1912 Act.

Under the adoptive Act of 1913, affecting refreshment premises, there is an extended definition of 'shop assistant,' by which the term includes all persons wholly or mainly employed in any capacity

[1] Wylie *v.* Lawrence Wright Music Company (1932).

[2] For the purpose of Section 2 of the 1912 Act, relating to hours of employment, which has effect now only in Northern Ireland and the Irish Free State, it is not necessary to refer to the definition of *shop assistant*, as the terms of that section are applicable to *young persons* (other than young persons wholly employed as domestic servants) 'employed in or about a shop.' Similarly, in *Great Britain*, the enjoyment by young persons of the benefits of the Shops Act, 1934, does not depend upon the fulfilment of this definition of *shop assistant*.

[3] Gordon Hotels, Ltd., *v.* London County Council (1916).

at the premises in connexion with the business there carried on.

In the Shops (Hours of Closing) Act, 1928, and the Hairdressers' and Barbers' Shops (Sunday Closing) Act, 1930, 'shop assistant' has the same meaning as in the Shops Act, 1912.

The meaning of the term under the Truck Act, 1896, is referred to in Chapter IV.

The range of occupational application of the Shops Act, 1934, is considerably wider, and, in this respect, so far as the provisions relating to hours of employment of young persons are concerned, it follows in effect the lines of Section 2 of the 1912 Act (which it replaces as affecting *Great Britain*), though the scope of application is more precisely defined. The provisions of the 1934 Act relating to hours of employment apply, subject to certain exceptions, to all young persons under eighteen years of age "employed about the business of a shop." This is a wide term. It is not exhaustively defined, but clearly covers not only 'shop assistants,' but all (young) persons employed on the business of the shop, whether within or outside the premises, such as clerical workers, errand boys, etc., and includes, moreover, under a specific provision in the interpretation section of the Act, "any employment in the service of the occupier of a shop upon any work, whether within the shop or outside it, which is ancillary to the business carried on at the shop."[1]

[1] The term 'shop,' as stated earlier in this chapter, includes not only a shop as defined by the Shops Act, 1912, but any wholesale shop and any warehouse occupied for the purposes of his trade by any person carrying on any retail trade or business or by any wholesale dealer or merchant.

Further, certain provisions regulating the employment of young persons about the business of a shop are extended to their employment in connexion with any retail trade or business carried on in any place not being a shop. In the case of employment in connexion with a wholesale shop or warehouse this wide scope is somewhat modified so far as employment outside the premises is concerned. Employment outside wholesale premises is not 'employment about the business of a shop' unless it is employment in the collection or delivery of goods or in attendance upon customers or in carrying messages or running errands.

The range of workers who stand to benefit by the provisions of Section 10, which relate to arrangements in shop premises for the health and comfort of shopworkers, is also not limited to 'shop assistants.' The terms of the different provisions in the section vary somewhat. The requirements as to ventilation and temperature and lighting apply to "every part of a shop in which persons are employed about the business of the shop"; and the requirement as to provision of facilities for taking meals is for the benefit of "persons employed about the business of a shop." In the case of the requirements as to sanitary conveniences and washing facilities, the conveniences and facilities are to be provided "for the use of persons employed in or about the shop," a description which is evidently intended to be somewhat narrower in scope.

Employed about the Business of a Shop. The phrase 'employed about the business of a shop,' contained in Section 1 of the 1912 Act, has been

interpreted by the High Court to mean the assistant's being busy about or engaged in work connected with the shop, without regard to whether it is work at the particular shop at which the assistant may be engaged. It was held [1] that an assistant employed at one of a number of shops owned by a firm is employed about the business of the shop while distributing circulars advertising the firm's business generally, and the employment of an assistant in such a manner on the occasion of the half-holiday is a breach of the 1912 Act unless a compensating half-holiday is allowed in the same week. It was also decided [2] that the 'business of a shop' is the business carried on in the shop by the shopkeeper, so that an assistant cannot legally be employed during the weekly half-holiday in another shop where the shopkeeper also carries on that business. The Court's decisions appear to indicate that the half-holiday, except as otherwise specially provided by the Act, must be regarded as inviolable, and the assistant must not be deprived of it by being required or allowed to do work of any kind connected with the business in which he is employed.

In or about a Shop. The expression 'in or about a shop,' used in Section 2 (1) of the 1912 Act, relating to hours of employment of young persons under eighteen years of age, which has effect now only in Northern Ireland and the Irish Free State, means, according to the decision of the High Court,[3] not merely the shop premises, but includes also work

[1] George *v.* James (1914).
[2] London County Council *v.* Wettman (1922).
[3] Collman *v.* Roberts (1896).

done elsewhere "for the purposes of the business carried on at the shop," such as fetching newspapers and delivering them to customers at their addresses.

Hours of Employment and Meal-hours. The question was raised in a Scottish case [1] whether 'hours of employment' include meal-hours. In the first schedule to the 1912 Act it is stipulated that where the hours of employment include the hours from 11.30 A.M. to 2.30 P.M. an interval of not less than three-quarters of an hour shall be allowed between those hours for dinner; and the interval for dinner shall be increased to one hour in cases where that meal is not taken on the premises. In the case cited the dinner hours actually allowed to two employees were 10.45 A.M. to 11.45 A.M. and 2 P.M. to 3 P.M. respectively. They commenced work at 7 A.M. and finished at 6.45 P.M. The High Court of Justiciary decided that 'hours of employment' include meal-hours, and, as in these two instances, where the hours of employment commence before 11.30 A.M. and terminate after 2.30 P.M., the dinner hour must be wholly within these hours. The dinner hours actually allowed were held illegal, and an argument that the assistants were not 'employed' from 11.30 A.M. to 2.30 P.M., because they were away at dinner for part of that time, was rejected.

Closed for the Serving of Customers. These words, used in connexion with the closing of shops at appointed times, imply that some steps must be taken to prevent the entrance of customers. Normally this would be done by closing the shop door. Where, however, this is not convenient because some work,

[1] Hutchison *v.* Cumming (1926).

unconnected with the serving of customers, is in progress, or for any other valid reason, resort must be had to other ways of demonstrating that the shop is closed for the service of customers.

An occupier, having closed his shop at the proper time, does not commit an offence against the Shops Acts by affixing to the door of his shop an automatic machine from which persons may make purchases while the shop is closed. The words 'serving of customers' mean *personal* service.[1]

Occupier. The word 'occupier' is not defined in the Shops Acts, but it is presumed to mean therein the person or firm carrying on the trade or business in the premises, whether or not that person or firm is the 'owner' (see definition below) of the premises.

Bank Holiday. The expression 'Bank Holiday' includes any public holiday (such as Good Friday and Christmas Day), or day of public rejoicing or mourning.

Week. The expression 'week' means the period between midnight on Saturday night and midnight on the suceeeding Saturday night.

Weekday. The expression 'weekday' means a day in the week other than Sunday.

In the Shops Act, 1934, unless the context otherwise requires, the following expressions have the meanings assigned to them below, and, save as otherwise expressly provided in the 1934 Act, expressions defined by the Shops Act, 1912, have the same meanings as in that Act:

Contravention. 'Contravention,' in relation to

[1] Willesden Urban District Council *v.* Morgan (1915).

any provision, includes any failure to comply with that provision.

Enactment. 'Enactment' includes any Act, and any rule, regulation, by-law, or Order made under any Act.

Factory and Workshop. 'Factory' and 'workshop' have respectively the same meanings as in the Factory and Workshop Act, 1901.

Owner. 'Owner,' in relation to any premises, has the same meanings as in the Public Health Act, 1875 (Section 4), as regards England and Wales, and as in the Public Health (Scotland) Act, 1897 (Section 3), in respect to Scotland.

Prescribed. 'Prescribed' means prescribed by regulations made under Section 17 of the Shops Act, 1912.

Residential Hotel. 'Residential hotel' means premises used for the reception of guests and travellers desirous of dwelling or sleeping therein.

Suitable and Sufficient. 'Suitable and sufficient' means, in relation to any shop or part of a shop, suitable and sufficient having regard to the circumstances and conditions affecting that shop or part.

Theatre. 'Theatre' includes any place used for the exhibition of pictures or other optical effects by means of a cinematograph or other suitable apparatus, and any music hall or any similar place of entertainment; and 'performance' has a corresponding meaning.

Working Hours. 'Working hours' means the time during which the persons employed are at the disposal of the employer, exclusive of any intervals

allowed for rest and meals ; and 'hours worked' has a corresponding meaning. Other periods of time may, however, be deemed to be within 'working hours,' in accordance with regulations made under Section 2 of the Act (power to regulate employment in spells).

Year. 'Year' means the period between midnight on the last Saturday night in the month of December and midnight on the last Saturday night in the next month of December.

Young Person. 'Young person' does not include a child whose employment is regulated by Section 18 of the Children and Young Persons Act, 1933, or by Sections 43 and 44 of the Children and Young Persons (Scotland) Act, 1932, but, save as aforesaid, means a person who has not attained the age of eighteen years.

For the purposes of the Shops Act, 1934, two further definitions should be noted, as set out hereunder:

Employed. A person who works about the business of a shop for the occupier thereof, or in connexion with any retail trade or business for the person by whom it is carried on, shall be deemed to be employed, notwithstanding that he receives no reward for his labour.

Between any Two Ages. A person shall be deemed to be between any two ages therein mentioned if he has attained the first-mentioned age but has not attained the second-mentioned age.

The definitions relating to 'shop,' 'wholesale shop,' and 'employed about the business of a shop' have been dealt with already in this section. Those

respecting 'Public Health Acts' and 'sanitary authority' are referred to in Section V of this chapter.

III. Conditions of Employment

Four matters under the above heading are the subject of statutory regulation in Great Britain, Northern Ireland, and the Irish Free State, by means of the Shops Act, 1912. These are a weekly half-holiday for shop assistants; meal intervals for shop assistants; hours of employment of young persons; and seats for female shop assistants.

The general provisions made regarding the first two matters (only) are not applicable in the case of (*a*) liquor shops in Northern Ireland or the Irish Free State, and (*b*) refreshment premises the occupier of which has adopted the Shops Act of 1913. In both these cases alternative arrangements are specified, including, among other terms, limitations upon the number of weekly hours of work, which, it may be pointed out, constitute the only statutory regulation of this kind affecting persons eighteen years of age and over employed in shops.

In accordance with Section 21 (5) and the fourth schedule of the Act the weekly half-holiday and meal intervals for shop assistants do not apply at all in rural districts, including towns within such districts, of Northern Ireland or the Irish Free State.

The weekly half-holiday for shop assistants may be suspended for part of the year in holiday resorts, subject to certain conditions, but compensation in the form of an annual holiday with full pay must be

given to the assistants who are deprived of their half-holiday for the period of suspension.

As affecting *Great Britain*, certain changes in the regulation of the above-mentioned matters under the 1912 Act have been brought about by the Shops Act, 1934, with the following results:

1. The provisions relating to the weekly half-holiday and meal intervals for shop assistants under Section 1 of the 1912 Act have been extended to certain young persons who were not within the definition of 'shop assistant' in the 1912 Act.
2. New provisions have been substituted for those of Section 2 of the 1912 Act, with reference to the hours of employment of young persons under eighteen years of age.
3. An addition has been made to Section 3 of the 1912 Act, regarding the *use* of seats which have to be provided under that section for female shop assistants.

In addition to the four matters comprising the regulated conditions of employment, with alternative and compensatory provisions relating to two of them, there are two kinds of special circumstances in which shop assistants in *Great Britain* are to have consideration and protection under the Shops Act of 1928. These are where later hours than the normal hours of closing are substituted by Orders of the local authority in regard to (*a*) subsidiary retail trade or business carried on at an exhibition or show, and (*b*) seasonal holiday resorts and sea-fishing places. Maximum hours of work may be specified in both

these instances, and in the second one, 'extra hours' —that is to say, hours in excess of the customary working day and after the normal general closing hours—are to be recompensed by stipulated holidays on full pay.

There are also to be mentioned here the improved arrangements for the health and comfort of shop-workers generally, laid down in the Shops Act, 1934. These arrangements, which have effect only in *Great Britain*, concern the ventilation, temperature, and lighting of shops, sanitary conveniences, and facilities for washing and for the taking of meals. Hitherto cleanliness, ventilation, overcrowding, and sanitary accommodation in shops had been regulated solely by the Public Health Acts and certain other enactments. It will be seen that the health sections of the 1934 Shops Act not only cover part of the same ground, but introduce new lines of regulation. The appropriate provisions of the Public Health Acts, as detailed in Chapter V, will nevertheless continue to apply, the regulation under the Shops Act, 1934, being in addition to and not in derogation of those provisions.

All the foregoing conditions of employment are dealt with in detail hereunder.

1. Shop Assistants' Weekly Half-holiday

On at least one weekday in each week—that is, on a day other than Sunday—no shop assistant is to be employed about the business of a shop after 1.30 P.M.

Exceptions. There are several exceptions to the foregoing rule:

(*a*) It does not apply to the week preceding a Bank Holiday if the shop assistant is not employed at all on the Bank Holiday, and if he also gets his half-holiday in Bank Holiday week at not later than 1.30 P.M.[1] Alternatively, the half-holiday in Bank Holiday week could be given to the assistants on the Bank Holiday instead of on the usual day, provided the prescribed notice is posted in the shop accordingly before the assistants to whom it relates cease work on the Saturday preceding the week during which it is to have effect.

(*b*) The assistant may remain long enough for the purpose of finishing serving a customer being served at 1.30, or (if the shop is being closed at 1.30) for the purpose of serving any other customers who are in the shop at that time.

(*c*) In holiday resorts frequented during certain seasons of the year the local authority may by Order suspend for a period not exceeding in the aggregate four months in any year the obligation to close shops on the weekly half-holiday; and in such cases of suspension the assistants' half-holiday is abrogated, for the period of suspension, in any shop the occupier of which satisfies the local authority that all his shop assistants are allowed a holiday for not less than two

[1] An illustration of the working of this exception where there are two Bank Holidays in the same week was afforded by the decision in the Irish case of Todd Burns and Co., Ltd., *v.* Dublin Corporation (1913). The firm did not give a half-holiday in the week ending December 21, but gave whole holidays in the following week on the two Bank Holidays—namely, Christmas Day and Boxing Day. It was held that no offence had been committed, Christmas Day being a weekday on which (in addition to one Bank Holiday—Boxing Day) the assistant was not employed after 1.30 P.M.

consecutive weeks in every year *with full pay*, and keeps posted in the shop a notice to that effect.

In a circular letter to local authorities dated April 4, 1912, explaining the 1912 Act, the Home Office stated, as regards the provisions in (*c*) above, that

> the Act does not contain any precise definition of the phrase 'holiday resort,' but the class of case for which the power of exemption given by the section is intended is indicated generally by the context. It applies only to places where at certain definite seasons of the year a large influx of visitors who come for holiday purposes takes place, and is intended to meet the difficulties caused by the large increase in the volume of trade during that season or seasons over the normal amount of trade during the rest of the year. A place visited by tourists during the whole or a greater part of the year, and not appreciably more at one time than at another, would not be entitled to an exemption; nor would a place which is not itself a resort, but merely a distributing centre through which visitors pass on their way to holiday resorts. The decision whether an Order of exemption is to be made under this provision for any holiday resort rests entirely with the local authority, and no approval of the Secretary of State is required. An Order, however, made under this provision for any place not falling within its scope would be liable to be challenged in the Courts.

The circular also pointed out that

> where the half-holiday for shops is suspended the half-holiday for assistants may also be suspended during the same period. Two conditions, however, have to be fulfilled by a shopkeeper before he can avail himself of the latter privilege: (1) he has to satisfy the local authority that it is his practice to allow *all* his assistants a fortnight's holiday on full pay every year; (2) he has to keep a notice affixed in his shop that it is his practice to do so. As regards (1), it is left to the local authority to require such

evidence of the shopkeeper's practice as they think fit. It should be observed that it must be the practice for *all* the assistants to be given a fortnight's holiday. This does not mean of course that it must necessarily be shown that every assistant employed, say, during the previous year was given a fortnight's holiday—it could not be required, for instance, that an assistant taken on and dismissed after a few weeks or months as unsatisfactory should have had a fortnight's holiday. The local authority are to have regard to the *practice* of the shop. On the other hand, to take an extreme case, a shop which opened only for the holiday season, and engaged hands simply for that season, dismissing them at the end of the season without giving the required holiday during the period of the engagement, would clearly not be entitled to the exemption. As regards (2), no special form of notice is prescribed, but the inspectors of the local authority should see that the notice is affixed in a position in which it can readily be seen by the assistants.

An important decision has been made by the High Court in connexion with exception (*c*) referred to above.[1] In this case a shop assistant was employed by a firm who, in purported pursuance of an Order made by a local authority suspending obligatory closing on the weekly half-holiday, kept their shop open accordingly and gave no half-holiday to the plaintiff assistant. But they did not satisfy the local authority that they gave all their assistants a fortnight's holiday with pay, and they did not affix a notice to that effect. The plaintiff shop assistant had no annual holiday for the five years 1925–29, and he claimed a fortnight's wages in lieu of holidays for each of those years. His claim failed, the Court holding that he had consented to being employed during

[1] Wylie *v.* Lawrence Wright Music Company (1932) (48 *T.L.R.*, 295).

prohibited hours (after 1.30 P.M. on the day of the half-holiday) without the permitting conditions being satisfied. He had therefore aided and abetted the defendants in committing an offence for which they were both liable to penalties under the Act. During all the years mentioned the plaintiff and the defendants had been engaged in an unlawful employment, and neither of them could have any claim against the other in respect of it.

In contrast to the exceptions to the statutory rule with which we have dealt, the requirement of a weekly half-holiday must be complied with even in the case of shop assistants engaged in shops that may be exempted from closing on the weekly half-holiday (except as provided in paragraph (*c*) above), and even though the assistants may be members of the shopkeeper's family.

Different days may be fixed for different assistants for the occasion of the half-holiday, which need not be on the same day each week. The prescribed notice must, however, be posted in the shop, and, also, if the half-holiday is given on different days to the assistants employed in different rooms or departments of a shop, in each such room or department, before the assistants to whom the notice relates cease work on the Saturday preceding the week in which it is to operate, intimating the day on which each assistant is to have the half-holiday.

2. Meal-times: Breaks in Employment

Breaks in employment are required to be given to shop assistants for meals and rest, as stated below:

Dinner. Where the employment includes the hours from 11.30 A.M. to 2.30 P.M. every assistant must be allowed a break *wholly within that time* [1] of not less than three-quarters of an hour if the meal is taken on the shop premises, or an hour if the meal is taken off the shop premises.

Tea. Where the employment includes the hours from 4 P.M. to 7 P.M. every assistant must be allowed a break of not less than half an hour *wholly during that period.*[2]

Other Periods. No assistant may be employed for a period exceeding six hours without being allowed a break of at least twenty minutes, so that if a period of employment exceeds six hours before the dinner-time an additional break of twenty minutes must be given during the morning, and a similar additional break is required if the hours of employment on the day of the half-holiday exceed six.

Exceptions and Variations. The foregoing provisions do not apply in the case of a shop where the only persons employed as shop assistants are members of the family of the occupier, maintained by him and dwelling in his house, but they affect members of the family if any other assistant also is employed.

Variations of the provisions are allowed in certain cases when busy periods coincide with the hours of employment named above, but these exceptions apply only to the redistribution of the breaks, and do not exempt them altogether. An assistant employed

[1] See reference to the case of Hutchison *v.* Cumming (1926) in Section II of this chapter.

[2] *Ibid.*

in the sale of refreshments or in the sale by retail of intoxicating liquors need not be allowed the interval for dinner between 11.30 A.M. and 2.30 P.M. if he is allowed the same interval so arranged as either to end not earlier than 11.30 A.M. or to commence not later than 2.30 P.M. The same variation is allowed in respect to assistants employed in any shop on the market-day in any town in which a market is held not oftener than once a week, or on a day of an annual fair.

The exact times of breaks are not required to be fixed by the employer beforehand.

3. Weekly Half-holiday and Meal Intervals for Young Persons

The provisions of Section 1 and of the first schedule of the 1912 Shops Act, relating to a weekly half-holiday and meal intervals, explained at length under the two immediately preceding headings of this section, apply, with certain exceptions noted later under heading 4, to every 'shop assistant' as defined in Section 19 of the said Act—that is to say, any person wholly or mainly employed *in* a shop in connexion with the serving of customers or the receipt of orders or the dispatch of goods. Here the word 'shop' includes any premises where any retail trade or business is carried on.

In *Great Britain*, however, the Shops Act, 1934, stipulates that the above-mentioned weekly half-holiday and meal intervals provisions shall apply to every young person who is wholly or mainly employed about the business of a shop or in connexion

with any retail trade or business carried on in any place not being a shop, such young person being deemed to be a 'shop assistant' for the purpose. Thus the personal scope of application is considerably widened. So also is the place scope, for in this case 'shop' includes not only any premises where any retail trade or business is carried on, but any wholesale shop and any warehouse occupied for the purposes of his trade by any person carrying on any retail trade or business or by any wholesale dealer or merchant; and also any place elsewhere than a shop in or from which any retail trade or business is carried on.

The posting of notices showing the day on which each assistant is to have his half-holiday, which is normally necessary, is not required in the case of young persons employed in connexion with any retail trade or business carried on in any place not being a shop.

There are two circumstances in which the weekly half-holiday does not apply: (*a*) in any week in which a young person is not employed as a 'shop assistant' within the meaning of Section 9 of the 1934 Shops Act for more than 25 hours in that week; (*b*) to the employment of a young person in a theatre [1] in any week (notwithstanding that he may be employed as a shop assistant for more than 25 hours in that week) if he is not employed in any capacity in the theatre before midday on *any day* in that week.

If in any proceedings against any person in respect of a contravention of the weekly half-holiday

[1] For definition of 'theatre' see Section II of this chapter.

provisions in relation to any young person it is shown that the young person was not so employed by him in the week in which the contravention occurred as to render the provisions applicable to the young person, it shall be a defence to prove that he did not know, and could not with reasonable diligence have ascertained, that the young person was also employed in that week as a shop assistant by some other employer.

As already explained, no shop assistant may be employed for a period exceeding six hours without being allowed a meal interval of at least twenty minutes, a similar interval being stipulated if the hours of employment on the day of the half-holiday exceed six. In the case of a young person the periods of employment just mentioned are modified so that for "six" hours, "five" hours or, on the day of the week on which he is not to be employed after 1.30 P.M., "five and a half hours" are substituted.

4. Alternative Provisions

A. IN LIQUOR SHOPS: NORTHERN IRELAND AND IRISH FREE STATE. In the case of shop assistants employed in shops in Northern Ireland or the Irish Free State in which the business of the sale by retail of intoxicating liquors is carried on the ordinary statutory requirements regarding the weekly half-holiday and meal-times do not apply. In their place are substituted special arrangements set out in full in the fifth schedule of the 1912 Act, of which the following is a brief summary:

(*a*) *Working Hours and Overtime.* The assistant,

except as otherwise provided, must not be employed about the business of the shop for more than 72 hours (exclusive of meal-times) in any week, or outside the daily limits fixed by the occupier for the beginning and ending of employment. Overtime to the extent of 90 hours in the calendar year is allowed, calculated as prescribed.

(*b*) *Meal-times.* Intervals for meals amounting to not less than two hours on each weekday must be allowed to each assistant.

(*c*) *Holidays.* A weekly half-holiday of not less than seven hours and an annual holiday of at least seven consecutive days after twenty-six consecutive weeks' employment, and of at least fourteen consecutive days after fifty-two weeks' consecutive employment, must be allowed. All holidays are to be on full wages or salary.

(*d*) *Special Circumstances.* In certain circumstances of absence of an assistant the other assistants may have their weekly half-holiday withdrawn and their weekly hours of work increased by seven hours accordingly. Where the absence of the assistant is due to ill-health the withdrawal of the weekly half-holiday of the other assistants and the consequential extension of their working hours shall not take place for more than four weeks in all.

B. In Refreshment Premises. Where the occupier of refreshment premises has adopted the 1913 Act the ordinary statutory rules governing the weekly half-holiday and meal-times of shop assistants do not have effect, but are replaced by the following alternative terms, applicable to all persons wholly or mainly employed in any capacity on such

premises in connexion with the business of selling refreshments:

(*a*) *Hours of Employment.* No assistant is to be employed for more than 65 hours, exclusive of meal-times, in any week.[1]

(*b*) *Weekday Holidays.* Every assistant must have secured to him thirty-two whole holidays on a weekday in every year. Of these at least two are to be given each month, and at least six consecutively as an annual holiday on full pay. Two half-holidays on a weekday are deemed equivalent to one whole holiday on a weekday. On half-holidays the employment must cease not later than 3 P.M., and last not longer than a period of six hours, including meal-time.

(*c*) *Sunday Holidays.* Every assistant is to be allowed on Sundays twenty-six whole holidays in the year, so distributed that at least one out of every three consecutive Sundays shall be a whole holiday.

(*d*) *Meal-times.* Intervals for meals must be allowed as follows: on the half-holiday not less than three-quarters of an hour; on every other day not less than two hours; and no assistant is to work for more than six hours without an interval of at least half an hour. The meal-times provisions do not apply if the only persons employed as shop assistants are members of the family of the occupier of the premises maintained by him and dwelling in his house.

[1] The terms of this paragraph ceased to have effect from December 30, 1934, in the case of young persons in *Great Britain* to whom the provisions of the Shops Act, 1934, apply. They are replaced by the hours of employment provisions of that Act.

5. Hours of Employment of Young Persons

A. In Northern Ireland and Irish Free State. In Northern Ireland and the Irish Free State the hours of employment of young persons continue to be governed by Section 2 of the Shops Act, 1912.[1] There is, however, a modification in the application of the section in the case of rural districts, including towns within such districts. Therein the section does not apply to (*a*) any shop, wholesale shop, or warehouse where the only persons employed are members of the same family dwelling in a building of which such shop or warehouse forms part or to which such shop or warehouse is attached; or (*b*) members of the occupier's family so dwelling.

Except where the modification just mentioned applies, the section lays down the rule that a young person under eighteen years of age, whether a member of the shopkeeper's family or not, must not be employed in or about a shop for a longer period than 74 hours, including meal-times, in any one week. This requirement applies whether the employment is solely on or about the premises, or to some extent partly on or about the shop premises and partly outside, or, it is submitted,[2] wholly outside the premises.

Further, no young person shall, to the knowledge of the occupier of the shop, be employed in or about a shop: (*a*) having been previously on the same day employed in any factory or workshop, as defined by the Factory and Workshop Act, 1901, for the number

[1] Additional protection of young persons (and also of children) is given under other enactments. This is dealt with in Chapter III.

[2] In view of the decision in Collman *v.* Roberts (1896).

of hours permitted by that Act; or (*b*) for a longer period than will, together with the time during which he has been previously employed on the same day in a factory or workshop, complete such number of hours as aforesaid.

In every shop in which a young person is employed a notice shall be kept exhibited by the occupier in a conspicuous place referring to the provisions of the section and stating the number of hours in the week during which a young person may lawfully be employed in or about the shop.

The above-mentioned provisions apply not only to retail shops, but also to wholesale shops and to warehouses in which assistants are employed for hire, in like manner as if they were shops within the meaning of the 1912 Act.

B. In Great Britain. The hours of employment of young persons in Great Britain are regulated by the Shops Act, 1934,[1] in the manner outlined below.

During the two years' transitional period ending on December 27, 1936, modifications of the limitations imposed by the 1934 Act on working hours are permitted. The number of hours allowed in each instance until the aforesaid date, in accordance with these modifications, is shown in italicized figures in parentheses in the following text.

For an explanation of the meanings of expressions used the reader is referred to Section II of this chapter.

Normal Maximum Working Hours. Subject to the

[1] Additional protection of young persons (and children) is afforded under other enactments. This is dealt with in Chapter III.

provisions of the Act, no young person under the age of eighteen years is to be employed about the business of a shop for more than the normal maximum working hours—that is to say, 48 (52) working hours in any week.

Overtime. Young persons under sixteen years of age are not to work overtime in any circumstances. Those between the ages of sixteen and eighteen years may, on occasions of seasonal or exceptional pressure of work at any shop, be employed about the business of the shop overtime—*i.e.*, beyond the normal maximum working hours. The overtime allowed is limited by the Act. It is also made subject to the provisions of any other enactment, such as, for example, by-laws made under the Children and Young Persons Acts respecting street trading by young persons. There are three kinds of limits set by the Act. The first limit applies to the shop as a whole, and restricts the number of weeks in any year in which overtime may be worked about the business of the shop. In this respect it is provided that when in the case of any shop there have been in any year six weeks (whether consecutive or not) in which any overtime employment of young persons has taken place, no further overtime shall be worked by young persons about the business of that shop during the remainder of that year. This does *not* mean that where there are several young persons employed about the business of any shop each of them may work overtime in six different weeks. The limit is set for the *shop*. A simple illustration will explain the rule. Consider the case of a shop about the business of which, say, three young persons,

A, *B*, and *C*, are employed. *A* is employed overtime in two weeks in January, and *B* two weeks in March and another two weeks in May. That will make a total of six weeks in which overtime employment has taken place; and thereafter none of the three young persons (not even *C*, who has worked no overtime at all, nor any additional young person) can be employed overtime about the business of that shop until the end of the year.

The second and third limits apply to the individual young person, and restrict the number of overtime hours which he may work in any year and in any week. These hours must not exceed 50 (*24*) and 12 (*8*) respectively.

Mixed Employment. In determining for the purposes of the Act the number of working hours for which a young person has in any week or (in the case of the special arrangements for the catering trade and for the sale of accessories for aircraft, motor vehicles, and cycles, respectively) in any period of two or three consecutive weeks been employed about the business of any shop, he is deemed to have been also employed about the business thereof during any time he was in that week or period employed about the business of any *other* shop or in a factory or workshop. It is provided, however, that if in any proceedings against the occupier of a shop in respect of a contravention of the provisions of the Act it is shown that the contravention occurred only by reason of time during which a young person was employed by another employer being deemed, in accordance with the above provisions, to be time during which he was employed about the business of that shop,

it is a defence to prove that the occupier did not know, and could not with reasonable diligence have ascertained, that the young person was employed for that time by the other employer.

No young person who has to the knowledge of the occupier of a shop been previously employed on any day in a factory or workshop is to be employed on that day about the business of the shop for a longer period than will, together with the time during which he has been previously employed on that day in the factory or workshop, complete the number of hours permitted by the Factory and Workshop Acts, 1901 to 1929.

It should be noted that, except as provided in the two immediately preceding paragraphs, nothing in the Act applies with respect to the employment of persons whose hours of employment are regulated by or under the Factory and Workshop Acts, 1901 to 1929.

Power to regulate Employment in Spells. If the Secretary of State is satisfied that it is necessary to make provision for preventing the hours of employment of young persons from being so divided into spells as to deprive them of reasonable opportunities for instruction and recreation, he may make regulations directing that, subject to such exceptions and modifications as may be provided by the regulations, the working hours of a young person employed shall (notwithstanding anything in the definition of the expression 'working hours' given in Section II of this chapter) be deemed, for the purposes of the Act, to include the period from the time at which that person first begins on any day to be employed

about the business of a shop until the time at which he last ceases on that day to be so employed, exclusive only (*a*) of such intervals, whether for rest or meals or otherwise, and (*b*) of time allowed for attendance at such instructional courses, as may be specified in the regulations. The regulations made must be laid before Parliament as soon as may be after they are made, and if either House of Parliament within the next subsequent 28 days on which that House has sat after any such regulation has been laid before it resolves that the regulation shall be annulled, the regulation shall forthwith be void, but without prejudice to the validity of anything previously done thereunder or to the making of a new regulation.

Restrictions on Night Employment. A young person employed about the business of a shop must in every period of 24 hours between midday on one day and midday on the next day be allowed an interval of at least 11 consecutive hours which shall include the hours from 10 P.M. until 6 A.M., but the interval need not include the hour between 5 A.M. and 6 A.M. in the case of male persons between the ages of sixteen and eighteen years who are employed during that hour in connexion with the collection or delivery of milk or bread or newspapers.

Extension of Foregoing Provisions to Retail Trading elsewhere than in Shops. The foregoing provisions of the Act, as well as those relating to the keeping of records and the supplementary provisions regarding enforcement of the Act, etc., are extended to the employment of young persons in connexion with any retail trade or business carried on in any place not

being a shop, and, accordingly, in those provisions, references to employment about the business of a shop are deemed to include references to such employment as aforesaid, and, for the purposes of the application of the said provisions to such employment, references in the Act to a shop are deemed to include references to the place in or from which the retail trade or business is carried on, and references to the occupier of a shop are deemed to include references to the person by whom the retail trade or business is carried on.

Special Arrangements for the Catering Trade. The occupier of any shop in which there is carried on the business of serving meals, intoxicating liquors (in Scotland, excisable liquors), or refreshments to customers for consumption on the premises is granted two special privileges:

First, by exhibiting the required notice he may, instead of conforming to the normal *weekly* maximum of 48 (*52*) working hours, apply to the shop an arrangement by which the hours can be distributed over a period of two consecutive weeks, specified in the notice, in the case of young persons between sixteen and eighteen years of age who are wholly or mainly employed in connexion with the said business; but so that no such young person is employed about the business of the shop for more than 60 hours in either week nor for more than 96 (*104*) hours in the fortnight. No overtime at all is permitted during the period. The number of the fortnightly periods is limited to twelve beginning in any calendar year.

Second, the occupier has the choice (again only

in the case of young persons between sixteen and eighteen years of age wholly or mainly employed in connexion with the aforesaid business) of keeping to the rule that overtime in respect of any shop shall not be worked in more than six weeks of any year, OR of using the permissible overtime in any week of a year. If he desires to keep to the six weeks' limit of overtime he must notify the local authority to that effect in the prescribed way. On the other hand, if the six weeks' limit is not chosen, the special provision has effect by which no young person may be employed overtime for more than 8 (*4*) working hours in any period of two consecutive weeks. The yearly limit of 50 (*24*) working hours remains in force in either case, but the weekly limit of 12 (*8*) working hours would appear to be superseded while this special provision is in operation; and, where also the privilege of applying the averaging arrangement of normal maximum working hours has been exercised, overtime is prohibited during the fortnights of the year in which such an arrangement is in operation. Where the special overtime provision applies in a shop in which other business is carried on, the overtime employment of young persons to whom the special provision applies is not to be taken into account as regards the application of the six weeks' limit of overtime in the shop in relation to the other young persons.

In addition to the above-mentioned privileges regarding normal working hours and overtime respectively a modification of the restrictions on night employment is permitted as respects *male* persons between sixteen and eighteen years of age whose

employment is wholly or mainly in connexion with the business of serving meals to customers for consumption on the premises. In their case the interval of at least 11 consecutive hours required by the Act need not include any time between 10 P.M. and midnight during which they are *wholly* employed in connexion with that business.

As already indicated earlier in this chapter, Section 1 (1) (*a*) of the adoptive Shops Act, 1913, which fixes a maximum working week of 65 hours, exclusive of meal-times, for employees in refreshment premises, ceased to have effect from December 30, 1934, in the case of young persons to whom the hours of employment provisions of the 1934 Act apply.

The last remaining point to be noted regarding the catering trade is that the requirements of the 1934 Act relating to hours of employment of young persons (as well as those concerning the health and comfort of employees of all ages) do not apply to any person employed in a residential hotel who is not a 'shop assistant' as defined by the Shops Act, 1912, or, in the case of a person employed at premises to which the 1913 Act applies, is not wholly or mainly employed there in connexion with the business of selling intoxicating liquors (in Scotland, excisable liquors) or refreshments for consumption on the premises.

Special Arrangements as to Sale of Accessories for Aircraft, Motor Vehicles, and Cycles. The occupier of any shop in which there is carried on the business of serving customers with supplies or accessories for aircraft, motor vehicles, or cycles sold for immediate use is granted two special privileges:

First, by giving the required notice to the local authority, he may elect to apply to the shop an arrangement whereby, in the case of young persons between sixteen and eighteen years of age employed in connexion with the aforesaid business, the normal maximum working hours shall, instead of being 48 (*52*) in any week, be such number of hours, being neither more than 54 (*58*) in any week nor more than 144 (*156*) in any period of three consecutive weeks, as may be specified in the notice. While this special arrangement is applicable to the shop, two further limits are placed upon the working of overtime by any young person concerned, as follows: (*a*) he may not work overtime in any week after being employed for 54 (*58*) working hours in that week; and (*b*) he may not work overtime for more than 12 (*6*) working hours in any period of three consecutive weeks. The last-mentioned limit, during the application of the special arrangement, would appear to supersede the weekly limit of 12 (*8*) working hours, but the limit of 50 (*24*) working hours in the year for any young person continues in operation.

Second, the occupier has the choice (again only in the case of young persons between sixteen and eighteen years of age wholly or mainly employed in connexion with the aforesaid business) of abiding by the rule restricting overtime in respect of any shop to six weeks of the year, OR of using the permissible overtime in any week of a year. If he wishes to adhere to the six weeks' limit of overtime he must notify the local authority accordingly, as prescribed. If, however, the six weeks' limit is not chosen the special provision applies whereby no young person

may be employed overtime for more than 12 (*6*) working hours throughout any period of three consecutive weeks, and this would appear to supersede the weekly limit of 12 (*8*) working hours. The yearly limit of 50 (*24*) working hours remains in force in either case. Where the special overtime provision applies in a shop in which other business is carried on, the overtime employment of young persons to whom the special provision applies is not to be taken into account as regards the application of the six weeks' limit of overtime in the shop in relation to the other young persons.

Where two or more retail trades or businesses are carried on in the same shop and the supplies or accessories business is not the principal retail trade or business carried on in the shop, the special arrangements described above apply only in relation to young persons employed about the business of the shop who are wholly or mainly employed in connexion with the business of serving customers with the supplies or accessories as aforesaid.

Records of Hours of Work. The occupier of any shop about the business of which young persons are employed has open to him two alternative methods of recording hours of work:

(*a*) He must keep a record, as prescribed, of the hours worked by, and of the intervals allowed for rest and meals to, every young person employed about the business of the shop, the particulars of all overtime employment to be separately entered in the record; OR

(*b*) He must keep exhibited in the shop or in any department thereof notices, as prescribed, specifying

the daily hours to be worked by, and intervals for rest and meals to be allowed to, young persons employed about the business of the shop or of the department, as the case may be, in which case he need only enter in the prescribed record any time during which any such person is employed about the business of the shop or department outside the daily hours so specified or during the intervals so specified, so, however, that any such time shall be entered as, and shall be deemed to be, overtime, unless the time was worked by that person in lieu of time not worked by him during the same week within the specified daily hours, and both the time not so worked and the time worked in lieu thereof are entered in the record.

The occupier must also keep exhibited in the shop, as prescribed, notices setting forth the number of hours in the week during which young persons may in accordance with the Act be employed about the business of the shop and such other particulars as may be prescribed. This requirement does not apply as respects any place in which retail trade or business is carried on, not being a shop.

Special Provision as to Theatres. The foregoing provisions of the Act do not apply to the employment of persons in or about a theatre except in relation to young persons employed wholly or mainly in connexion with any retail trade or business carried on in the theatre; and those provisions in their application to such young persons are subject to the modification that, in the case of a person between sixteen and eighteen years of age employed in a theatre where a performance is taking place which begins before and ends after 10 P.M., the in-

terval of at least 11 consecutive hours required by the Act need not include any time between 10 P.M. and the time at which the performance ends.

Provisions as to Birth Certificates. Section 14 of the Act provides that where the age of any person is required to be ascertained or proved for the purposes of the Act, any person shall, on presenting a written requisition in such form and containing such particulars as may be from time to time directed by the Registrar-General and on payment of a fee of sixpence, be entitled to obtain a certified copy under the hand of a registrar or superintendent registrar of the entry in the register under the Births and Deaths Registration Acts, 1836 to 1929, of the birth of that person; and such a form of requisition shall on request be supplied without charge by every registrar and superintendent registrar of births, deaths, and marriages. In Scotland Section 14 has effect as if for references to the Registrar-General, and the Births and Deaths Registration Acts, 1836 to 1929, there were respectively substituted references to the Registrar-General for Scotland and the Births, Deaths, and Marriages (Scotland) Acts, 1854 to 1934, and as if any reference to a superintendent registrar were omitted.

6. Seats for Female Assistants

In Great Britain, Northern Ireland, and the Irish Free State it is required that in all rooms of a shop where female shop assistants are employed in the serving of customers the occupier of the shop must provide seats behind the counter or in such

other position as may be suitable for the purpose, such seats to be in the proportion of not less than one seat to every three female shop assistants employed in each room; and, in *Great Britain*, it is the duty of the occupier of the shop to permit the female shop assistants so employed to make use of such seats whenever the use thereof does not interfere with their work, and the occupier must in the prescribed manner and form give notice informing such shop assistants that they are intended to do so.

7. Extra Hours worked after Normal Closing Hours

The provisions set out below relating to extra hours worked by shop assistants after normal closing hours at exhibitions or shows and in holiday resorts and sea-fishing places have effect only in *Great Britain*.

A. EXHIBITIONS OR SHOWS. Where the local authority by Order substitute, as respects subsidiary or ancillary retail trade or business carried on at an exhibition or show, later closing hours for the general closing hours or for any hours fixed by a local Closing Order, not being later, however, than 10 P.M., the Order shall be made subject to such conditions as the local authority may consider necessary for securing that shop assistants affected shall not be employed in or about such business for more than such number of hours as may be specified by the Order.

B. HOLIDAY RESORTS AND SEA-FISHING PLACES. Where an Order is made by a local authority substituting later closing hours for the general closing

hours of shops in holiday resorts and sea-fishing places for seasonal periods not exceeding four months in the aggregate in any year, the Order shall be made subject to such conditions as the local authority may consider necessary for securing that shop assistants affected shall not be employed in or about the business of a shop for more than such number of hours as may be specified by the Order.

If, while such an Order is in force, any shop assistant affected thereby is, in any year, employed in or about the business of a shop for extra hours—namely, hours in excess of the customary working day (consisting of the daily number of hours during which shop assistants of his class are customarily employed in or about the business of the shop in which he is employed), being hours after the normal general closing hours—he shall be entitled to corresponding holidays with full wages—namely, wages at a rate equivalent to the rate of wages to which he was entitled immediately before the holiday—and if at the date of the termination of his employment or at the end of the year, whichever first occurs, default has been made in granting to him any holiday or wages to which he is thus entitled, the shop assistant may recover, as a debt due from the employer for every day's holiday in respect of which such default has been made, a sum equal to one-sixth of the highest weekly rate of wages paid to him in respect of his employment in or about the business of the shop during the year or the part thereof during which he has been employed therein.

The following method is laid down for calculating the compensating holidays:

(*a*) The number of extra hours for which a shop assistant has been employed while any one or more of such Orders have been in force shall be added together, any fraction of an hour not exceeding half being treated as half an hour, and any fraction of an hour exceeding half being treated as an hour.

(*b*) The number of hours comprised in the customary working day on days other than half-holidays shall be taken as the standard unit.

(*c*) The aggregate number of the extra hours, as calculated in accordance with paragraph (*a*) above, shall be divided by the standard unit, and the quotient, fractions thereof being disregarded, shall be the number of days' holiday to which the shop assistant shall be entitled.

8. Sanitary and other Arrangements

Under Section 10 of the Shops Act, 1934, arrangements are required to be made for the health and comfort of shop and warehouse workers in *Great Britain*. In this connexion the reader is referred to the observations in Section 11 of this chapter as to the meaning of 'shop' and the extent of occupational scope for the purposes of the 1934 Act as compared with the corresponding definitions in the earlier Acts. An important point to be noted is that considerable numbers of clerks and other ancillary workers are within the ambit of the section.

Hitherto sanitary and other health matters in shops and warehouses, and also in offices, had been subject to regulation by means of the general Public Health Acts, supplemented in certain districts by

provisions in local Acts. None of these previously existing means of regulation are superseded by the provisions of the Shops Act, 1934, and the old and the new laws are mutually supplementary in so far as they cover the same ground.

Six matters are regulated by the 1934 Act, as follows:

1. Ventilation.
2. Temperature.
3. Sanitary conveniences.
4. Lighting.
5. Washing facilities.
6. Meals facilities.

Matters 1 and 3 are also regulated under the Public Health Acts, as explained in Chapter V, but regulation of the other four is *new*.

On the other hand, cleanliness and overcrowding, which are subject to regulation under the Public Health Acts, are not included in the provisions of the Shops Act, 1934.

In respect to each of the six matters regulated the words 'suitable and sufficient' are used. There is little guidance afforded by the Act as to what is suitable and sufficient. In the interpretation section it is stated that the expression 'suitable and sufficient' means, "in relation to any shop or part of a shop, suitable and sufficient having regard to the circumstances and conditions affecting that shop or part." The same expression is used in corresponding provisions of the Public Health Acts with reference to sanitary conveniences, but there regard must be had not only to the number of persons employed or in

attendance in the premises, but also as to whether persons of both sexes are employed or intended to be employed or in attendance. If there is such mixed employment proper separate accommodation for persons of each sex must be provided. It is presumed, however, that in administering the 1934 Act provision concerning sanitary accommodation the local authority will consider the employment or attendance of members of both sexes in a shop or part of a shop as being one of the "circumstances and conditions affecting that shop or part." In any event, the requirements of the Public Health Acts with reference to this matter are, as already indicated, supplementary to those of the 1934 Act, and many local authorities, particularly in the larger towns, recognize the necessity of requiring provision of separate accommodation where members of both sexes are employed or are in attendance at the same place, and also insist upon compliance with a quantitative standard which they have laid down. Further attention is given to this subject in Chapter V.

The provisions of the 1934 Act as to health and comfort are set out below.

Ventilation. In every part of a shop in which persons are employed about the business of the shop suitable and sufficient means of ventilation must be provided, and suitable and sufficient ventilation must be maintained.

Temperature. In every part of a shop in which persons are employed about the business of the shop suitable and sufficient means must be provided to maintain a reasonable temperature, and a reasonable temperature must be maintained.

Sanitary Conveniences. In every shop, not being a shop exempted from this provision, there must be provided and maintained suitable and sufficient sanitary conveniences available for the use of persons employed in or about the shop.

Lighting. In every part of a shop in which persons are employed about the business of the shop suitable and sufficient means of lighting must be provided, and every such part of a shop must be kept suitably and sufficiently lighted.

Washing Facilities. In every shop, not being a shop exempted from this provision, there must be provided and maintained suitable and sufficient washing facilities available for the use of persons employed in or about the shop.

Meals Facilities. Where persons employed about the business of a shop take any meals in the shop there must be provided and maintained suitable and sufficient facilities for the taking of those meals.

Exemptions. A shop is to be exempted from the foregoing provisions relating to sanitary conveniences and washing facilities if there is in force a certificate exempting that shop therefrom, granted by the authority whose duty it is to enforce those provisions, respectively, and any such certificate will remain in force until it is withdrawn by the authority. No such certificate can be granted with respect to any shop unless the authority are satisfied that, by reason of restricted accommodation or other special circumstances affecting the shop, it is reasonable that such a certificate should be in force with respect thereto, AND that suitable and sufficient sanitary conveniences or washing facilities, as the case may

be, are *otherwise conveniently available*. A certificate in force with respect to any shop is to be withdrawn if the authority at any time cease to be satisfied that it is reasonable for it to remain in force. If, however, the occupier of a shop is aggrieved by the withdrawal of a certificate he may appeal to the county court (in Scotland the sheriff court) for the district in which the shop is situated, and that court may make such order concerning the certificate as appears to the court, having regard to the matters aforesaid, to be just and equitable.

Contraventions. If it appears to the authority whose duty it is to enforce any provision of Section 10 that there has been, in the case of any shop, a contravention of that provision, the authority must, by notice served on the owner or occupier of the shop, require him to take, within such time as may be limited by the notice, such action as may be specified in the notice for the purpose of securing compliance with the said provision, and if any person served with such a notice fails to comply with the requirements thereof he is liable on summary conviction to a fine. In this connexion it is a defence to any proceedings to prove that there was no contravention of the provisions of Section 10, or that the requirements of any such notice as aforesaid were, within a reasonable time after service of the notice, complied with in so far as they were necessary to secure compliance with the stipulated provisions.

Apportionment of Expenses. If any person, being either the owner or the occupier of a shop, who has incurred or is about to incur any expense for the

purpose of securing that the requirements of Section 10 of the Act are complied with in respect to the shop, alleges that the whole or any part of the expense ought to be borne by any other person having an interest in the premises, he may apply to the county court (in Scotland the sheriff court) for the district in which the shop is situated, and that court may make such order concerning the expenses or their apportionment as appears to the court, having regard to all the circumstances of the case, including the terms of any contract between the parties, to be just and equitable, and any order made may direct that any such contract as aforesaid shall cease to have effect in so far as it is inconsistent with the terms of the order.

IV. Closing of Shops

We come now to the subject of the closing of shops, as distinct from the provisions already described relating to employment conditions.

The Acts regulate the closing of shops on the day of the weekly half-holiday, on other days, and, in the case of one class of shops (in *Great Britain*), on Sundays.

As regards the day of the weekly half-holiday, a statutory closing time is fixed. Closing hours on other days are fixed by two different methods, the first being the statutory plan of declaring the latest times at which shops *generally* shall be closed (which applies only in *Great Britain*), and the second of enabling local authorities to fix closing hours by Orders (confirmable by the Secretary of

State) applicable in their respective areas. These local closing times cannot be fixed at an hour earlier than 7 P.M., or, in the case of sweet shops in *Great Britain*, 8 P.M.[1] It is therefore in fixing these earliest local closing hours, or other hours within the periods of time between the earliest local closing hours and the latest general closing hours, that local authorities in *Great Britain* can exercise their powers.

1. Weekly Half-holiday Closing

An important point to bear in mind in connexion with the weekly half-holiday closing is that even where certain classes of shops are exempted from closing on the half-holiday the assistants' right to such holiday still obtains, though it may be satisfied by the giving of different half-holidays for different assistants.

Hour of Closing. Every shop, save as otherwise provided, must be closed for the serving of customers not later than 1 o'clock in the afternoon on one weekday in every week.

Fixing Day by Order. The local authority may, by Order, fix the day on which a shop is to be so closed, and the Order may either fix the same day for all shops or may fix

(*a*) Different days for different classes of shops; or

(*b*) Different days for different parts of the district; or

(*c*) Different days for different periods of the year;

[1] High Court decision in Kenyon *v.* Street (1930).

Provided that

(i) Where the day fixed is a day other than Saturday the Order shall provide for enabling Saturday to be substituted for such other day; and

(ii) Where the day fixed is Saturday the Order shall provide for enabling some other day specified in the Order to be substituted for Saturday—as respects any shop in which notice to that effect is affixed by the occupier, and that no such Order shall be made unless the local authority after making such inquiry as is prescribed by regulation are satisfied that the occupiers of a majority of each of the several classes of shops affected by the Order approve it.

Day chosen by Occupier. If no Order is made affecting a shop the weekly half-holiday may be chosen by the occupier, who is required to specify it by notice affixed in the shop, but he cannot change the day oftener than once in any period of three months.

Exemptions by Order. Where the local authority have reason to believe that a majority of occupiers of shops of any particular class in any area are in favour of being exempted from the obligation to close on the weekly half-holiday, either wholly or by fixing as the closing hour instead of 1 o'clock some other hour not later than 2 o'clock, the local authority, unless they consider that the area in question is unreasonably small, shall take steps to ascertain the wishes of such occupiers, and if they are satisfied that a majority of them are in favour of the exemption,

or, in case of the taking of a vote, that at least one-half of the votes recorded by occupiers of shops within the area of the class in question are in favour of the exemption, the local authority shall make an Order exempting shops of that class within the area either wholly or to the extent before mentioned.

Bank Holiday Closing. Where a shop is closed during the whole day of a Bank Holiday, and that day is not the one fixed for the weekly half-holiday, the occupier may keep the shop open for serving customers after the hour at which it is required to be closed either on the half-holiday immediately preceding or on the half-holiday immediately succeeding the Bank Holiday.

Exceptions. Shops in which the only trade or business carried on is that of any of the following classes are exempted from the provisions for the weekly half-holiday closing: sale by retail of intoxicating liquors; sale of refreshments, including the business carried on at a railway refreshment room; sale of motor, cycle, and aircraft supplies and accessories to travellers; sale of newspapers and periodicals; sale of meat, fish, milk, cream, bread, confectionery, fruit, vegetables, flowers, and other articles of a perishable nature; sale of tobacco and smokers' requisites; business carried on at a railway bookstall on or adjoining a railway platform; sale of medicines and medical and surgical appliances; and retail trade carried on at an exhibition or show, if the local authority certify that such retail trade is subsidiary or ancillary only to the main purpose of the exhibition or show.

The local authority may, however, by Order made

and revocable in manner provided with respect to Closing Orders, *extend* the provisions as to weekly half-holiday closing to shops of any exempted class if satisfied that the occupiers of at least two-thirds of the shops of that class approve the Order.

A customer may be served at any time at which a shop is required to be closed if the customer was in the shop before the time of required closing, or if there is reasonable ground for believing that the article supplied to the customer is required in the case of illness; and customers may be served, at a time when the shop in which they are sold is required to be closed, with victuals, stores, or other necessaries for a ship on her arrival at or immediately before her departure from a port.

Modifications in Northern Ireland and Irish Free State. The foregoing weekly half-holiday closing provisions do not apply in rural districts, including towns within such districts, of Northern Ireland or the Irish Free State. Outside those districts and towns the provisions do apply, subject to the modification that any shop in which the trade or business of the sale by retail of intoxicating liquors is carried on in conjunction with any other trade or business shall, as respects ALL such trades or businesses, be exempt from the obligation to be closed on the weekly half-holiday.

Holiday Resorts. In places frequented as holiday resorts during certain seasons of the year (except those in rural districts and towns within such districts of Northern Ireland or the Irish Free State) the local authority may by Order suspend, for such period or periods as may be specified in the Order,

not exceeding in the aggregate four months in any year, the statutory obligation to close shops on the weekly half-holiday. In *Great Britain* the Order may be made so as to apply to the whole or to any part of the local authority's area, and to all shops or to shops of any class within that area or part.

Number of Orders made and confirmed. There are no figures available showing the number of Orders made by local authorities fixing the day of closing for the purpose of the weekly half-holiday. Such Orders do not require confirmation by the Secretary of State, and the Home Office is not kept informed of them. As regards Orders providing for a weekly half-holiday for exempted trades, official figures show that the number of such Orders made, confirmed by the Secretary of State, and still in force on October 24, 1934, in England and Wales was 284—73 being made by county councils, 150 by city or town councils, 60 by urban district councils, and 1 by a rural district council. In addition there were 185 combined Closing Orders for weekly half-holiday and other days made and confirmed up to the same date. Of these 46 were made by county councils, 94 by city or town councils, 42 by urban district councils, and 3 by rural district councils. It is interesting to note that considerable numbers of these Orders have been made since general closing hours have been in operation, first under the General Closing Order and subsequently under the 1928 Act.

With respect to Scotland, there were 48 town council Orders and 1 county council Order made and confirmed by the Secretary of State and still in force on October 25, 1934, extending weekly half-

holiday closing of shops to exempted trades. In addition there were 23 town council and 5 county council combined Closing Orders for weekly half-holiday and other days made and confirmed up to the same date. A few of the above-mentioned Orders have been made and confirmed since the passing of the 1928 Closing Act.

No official information is available as to the number of Orders made in Northern Ireland.

The number of Orders made and confirmed in the Irish Free State and still in force, according to information compiled to June 13, 1934, extending weekly half-holiday closing of shops to exempted trades, was 24—4 being made by county borough councils and 20 by urban district councils.

2. Closing Hours on other Days

A. GENERAL CLOSING HOURS. The provisions of the Shops Act, 1928, relating to *general closing hours*, as outlined below, apply only in *Great Britain*. Every shop, except as otherwise provided, must be closed for the serving of customers not later than 9 P.M. on one day in the week (the late day) and not later than 8 P.M. on any other day in the week.

The Late Day. The late day must be Saturday unless the local authority by Order fix some other day. Such an Order may fix the same day for all shops, or may fix different days for different classes of shops; or different days for different parts of the district; or different days for different periods of the year; provided that, where the local authority have under the 1912 Act fixed any day as the weekly half-holiday for any class of shop, or for any part of

their district, or for any period of the year, they must, as respects that class, part, or period, fix some other day as the late day.

Sales after Closing Hours. The following transactions are permitted after the general closing hours or after the local closing hours fixed by Orders made and confirmed under the 1912 Act:

(*a*) The serving of a customer who was in the shop before the closing hour, or who requires an article in the case of illness;

(*b*) The sale of meals or refreshments (including table-waters, sweets, chocolates, sugar confectionery, and ice-cream) for consumption on the premises, or (in the case of meals or refreshments sold on railway premises) for consumption on the trains:

Provided that

In the case of canteens attached to and situated within or in the immediate vicinity of any works, if persons are employed at such works after the closing hour, and the canteen is kept open only for the use of such persons, meals or refreshments may be sold after the closing hour for consumption anywhere within the works premises; and for the purposes of the foregoing provisions tobacco supplied at a meal for immediate consumption shall be deemed to form part of the meal;

(*c*) The sale of newly cooked provisions and cooked or partly cooked tripe to be consumed off the premises;

(*d*) The sale of intoxicating liquors to be consumed on or off the premises;

(*e*) The sale of tobacco, table-waters, or matches on licensed premises during the hours in which intoxicating liquor is permitted by law to be sold on the premises;

(*f*) The sale of tobacco, matches, table-waters, sweets, chocolates, or other sugar confectionery, or ice-cream, at any time during the performance in any theatre, cinema, music-hall, or other similar place of entertainment so long as the sale is to a *bona-fide* member of the audience and in a part of the building to which no other members of the public have access;

(*g*) The sale of medicine or medical or surgical appliances, so long as the shop is kept open only for such time as is necessary for serving the customer;

(*h*) The sale of newspapers, periodicals, and books from the bookstalls of such terminal and main-line stations as may be approved by the Secretary of State;

(*i*) The sale of aircraft, motor, or cycle supplies or accessories for immediate use, so long as the shop is kept open only for such time as is necessary for serving the customer;

(*j*) The sale of victuals, stores, or other necessaries required by any naval, military, or Air Force authority for his Majesty's forces or required for any ship on her arrival at or immediately before her departure from a port, so long as the shop is kept open only

for such time as is necessary for serving the customer;

(*k*) Post Office business.

Special Provisions as to Confectionery, etc. As respects the trade or business of selling table-waters, sweets, chocolates, or other sugar confectionery, or ice-cream, *later* general closing hours are fixed—namely, 10 P.M. on the late day and 9.30 P.M. on any other day. But a local authority may, in their area or in any part thereof, by Order substitute an earlier hour for either of the just-mentioned general closing hours, but not earlier than 8 P.M., if they are satisfied that such an Order is desired by the occupiers of a majority of the shops to be affected by the Order.

Special Provisions for Sale of Tobacco, etc. In regard to the trade or business of selling tobacco and smokers' requisites, a local authority may, in their area or in any part thereof, by Order substitute later hours for the statutory general closing hours, but not later than 10 P.M. on the late day or 9.30 P.M. on any other day, if they are satisfied that such an Order is desired by the occupiers of at least two-thirds in number of the shops to be affected by the Order.

Later Hours at Exhibitions or Shows. In regard to retail trade or business carried on at an exhibition or show within their area the local authority may by Order substitute later hours for the general closing hours or for any local Closing Order hours, but not later than 10 P.M., if they are satisfied that such trade or business is subsidiary or ancillary only to the main purpose of the exhibition or show.

Later Hours in Holiday Resorts and Sea-fishing Places. In places frequented as holiday resorts during certain seasons of the year, and in places where sea-fishing is principally carried on during certain seasons of the year, the local authority must, by Order, during such period as may be specified in the Order, substitute for the general closing hours such later hours as they may think fit if, upon application being made to them for such an Order, they are satisfied it is desired by the occupiers of a majority of the shops to be affected by it.

The substitution of later hours in any year must not be made for more than four months in the aggregate in that year.

The Order may be made to apply to the whole or any part of the local authority's area, and to all shops or shops of any class within that area or part, and may suspend the operation of any local Closing Order for the time being in force.

Suspension of Closing Provisions on Special Occasions. The Secretary of State may by Order for such periods as he thinks fit suspend the operation of the provisions regarding general closing hours during the Christmas season or in connexion with any other special occasion, and while any such Order is in force the provisions of any local Closing Order are deemed to be suspended also, except in so far as may be otherwise directed by the Order of the Secretary of State.

A local authority may, in connexion with any special occasion, by Order for such period as they may think fit, suspend the provisions relating to general closing hours and those of any local Closing

Order they have made, provided that they must not in any year suspend the said provisions for more than seven days in the aggregate in that year.

B. Local Closing Hours. Under the 1912 Act a Closing Order made by a local authority and confirmed by the Secretary of State may fix the hours on the several days of the week at which, either throughout the area of the local authority or in any specified part thereof, all shops or shops of any specified class are to be closed for serving customers.

The closing hour fixed by such an Order may not be earlier than 7 P.M. on any day of the week.

In *Great Britain* the local authority by Order may fix local closing hours earlier than the general closing hours which we have already considered, but not earlier than 7 P.M. on any day of the week, or 8 P.M. in the case of sweet shops.[1] A local Closing Order, however, has no effect in so far as it authorizes sales after the general closing hours fixed by or under the provisions of the Shops Act of 1928 or contains provisions inconsistent with the provisions of that Act.

A local Closing Order may define the shops and trades to which it applies; authorize sales after the closing hour in cases of emergency and in such other circumstances as may be specified or indicated in the Order; and contain any incidental, supplemental, or consequential provisions which may appear necessary or proper.

Sales after Closing Hours in Great Britain. Certain transactions are permitted after the closing hours fixed by a local Closing Order. These are the

[1] High Court decision in Kenyon *v.* Street (1930).

same as those indicated already in regard to general closing hours.

Sales after Closing Hours in Northern Ireland and Irish Free State. A customer who was in the shop before the closing hour may be served thereafter; and nothing in a Closing Order applies to any shop in which the only trade or business carried on is trade or business of any of the following classes: Sale by retail of intoxicating liquors; sale of refreshments for consumption on the premises; business carried on at a railway refreshment room; sale of newspapers; sale of tobacco and smokers' requisites; business carried on at a railway bookstall; sale of medicines and medical and surgical appliances; Post Office business.

Modifications in Northern Ireland and Irish Free State. The power of making local Closing Orders does not apply in rural districts of Northern Ireland or the Irish Free State. It does apply in towns within such rural districts, subject to the modifications that on one specified day in the week the closing hour may be an hour not earlier than 1 P.M., and that a Closing Order may prohibit, either absolutely or subject to such exemptions and conditions as may be contained in the Order, the carrying on of any retail trade after the closing hour in any place not being a shop within the area to which the Order applies for the carrying on of which it would be unlawful to keep a shop open after that hour.

Under Section 21 of the 1912 Act further modifications are made respecting Closing Order provisions in Northern Ireland and the Irish Free State, except in

rural districts and towns within such districts. These modifications are as follows:

(*a*) The local authority may, in addition to their other powers under the Act, make an Order fixing the hours on the several weekdays before which, either throughout the area of the local authority or in any specified part thereof, no shop in which the business of the sale of intoxicating liquors is carried on shall be open for serving customers. Such an Order shall be deemed to be a Closing Order, and all the provisions of the Act with respect to Closing Orders, save those relating to the earliest hours to be fixed by a Closing Order, shall apply accordingly with the necessary modifications: Provided, however, that the Order shall not in any way affect the powers conferred by the licensing laws,[1] of granting exemption orders in respect of licensed premises, or apply to any licensed premises during any time the premises are permitted to be open under any such exemption order.

(*b*) Shops in which there is carried on the business of the sale by retail of intoxicating liquors for consumption *on or off* the premises, whether such business is carried on alone or in conjunction with any other business or trade, shall, for the purposes of the provisions of the Act with respect to Closing Orders, be deemed to be shops of a separate class, and the local authority shall not make a Closing Order applying to shops of that class unless they are satisfied that the occupiers of at least two-thirds in

[1] Section 11 of the Licensing (Ireland) Act, 1874, as regards Northern Ireland, and provisions in the Intoxicating Liquor Act, 1927, as respects the Irish Free State.

number of the shops of that class approve the Order.

(*c*) Shops in which there is carried on the business of the sale by retail of intoxicating liquors for consumption *off* the premises *only*, whether such business is carried on alone or in conjunction with any other business or trade, shall, in like manner and for the purposes of the provisions of the Act with respect to Closing Orders, be deemed to be shops of a separate class, and the provisions of the immediately preceding paragraph respecting the making of Closing Orders shall apply to that class of shops as a separate class accordingly.

Procedure for making Closing Orders. Before a local authority may make a Closing Order they must give public notice of their intention, as prescribed, and must give consideration to any objections they may receive. If the local authority are then satisfied that it is expedient to make the Order, and that the occupiers of at least two-thirds in number of the shops to be affected by the Order approve it, they may make the Order. Notice of the provisions of the Order must be given and copies thereof supplied in prescribed manner, and it must then be submitted to the Secretary of State, who shall consider any objections to it, and may either disallow the Order or confirm it with or without amendment. Upon confirmation of an Order it becomes final and has the effect of an Act of Parliament, subject to its being laid before Parliament for the prescribed period and not being annulled by His Majesty in council as the result of objections to the Order by either House.

Revocation of Closing Orders. The Secretary of

State may, at any time on the application of the local authority, revoke a Closing Order either absolutely or as affecting any particular class of shops, and if at any time it is made to appear to the satisfaction of the local authority that the occupiers of a majority of any class of shops to which a Closing Order applies are opposed to its continuance, the local authority must apply to the Secretary of State to revoke the Order in so far as it affects that class of shops, but the revocation shall be without prejudice to the making of any new Closing Order.

Number of Orders made and confirmed. According to latest information available the number of Orders made, confirmed by the Secretary of State, and still in force in England and Wales on October 24, 1934, was 627—137 being made by county councils, 371 by city or town councils, 113 by urban district councils, and 6 by rural district councils. In addition there were 185 combined closing and weekly half-holiday Orders made, confirmed, and still in force on the same date. Of these 46 were made by county councils, 94 by city or town councils, 42 by urban district councils, and 3 by rural district councils. Many of these Orders have been made since general closing hours have been in operation, first under the General Closing Order and later under the 1928 Act.

In Scotland the number of Orders made, confirmed by the Secretary of State, and still in force on October 25, 1934, was 111, of which 105 were made by town councils and 6 by county councils. In addition there were 28 combined closing and weekly half-holiday Orders made, confirmed, and still in

force on the same date, of which 23 were town council and 5 county council Orders. Several of these Orders were made after the passing of the 1928 Closing Act.

No information is obtainable regarding the number of Orders made in Northern Ireland.

In the Irish Free State the number of Orders made and confirmed and still in force, according to information compiled to June 13, 1934, was 9—5 being made by county borough councils and 4 by urban district councils.

Local Inquiries for promoting and facilitating Early Closing. Where it appears to the Secretary of State, on the representation of the local authority or a joint representation from a substantial number of occupiers of shops and shop assistants in the area of the local authority, that it is expedient to ascertain the extent to which there is a demand for early closing in any locality, and to promote and facilitate the making of a Closing Order therein, the Secretary of State may appoint a competent person to hold a local inquiry. If, after holding such inquiry and conferring with the local authority, it appears to the person holding the inquiry that it is expedient that a Closing Order should be made, he must prepare a draft Order and submit it to the Secretary of State, together with his report thereon. If the Secretary of State, after considering the draft Order and report and any representations which the local authority may have made in respect thereof, is of opinion that it is desirable that a Closing Order should be made, he may communicate his decision to the local authority, and thereupon there shall be deemed to

be a *prima facie* case for making a Closing Order in accordance with the terms of the draft Order, subject to such modifications (if any) as the Secretary of State may think fit. The person who held the inquiry must, if so directed by the Secretary of State on the application of the local authority, assist and co-operate with the local authority in taking the steps preliminary to making the Order.

The provisions contained in the last preceding paragraph do not apply in rural districts or in towns within such districts of Northern Ireland or the Irish Free State.

3. Trading Elsewhere than in Shops

It is not legally permissible to carry on in any locality any class of retail trade or business in any place which is not a shop when it would be unlawful in that locality to keep a shop open for such trade or business, and any person who contravenes this provision is regarded by the law as though he were the occupier of a shop and the shop were being unlawfully kept open. The prohibition imposed by the above provision, as respects any day other than the weekly half-holiday, is subject in so far as the prohibition is affected by any Closing Order to any exemptions and conditions as may be contained in the Order, but it does not prevent a barber or hairdresser from attending a customer in the customer's residence, or the holding of an auction sale of private effects in a private dwelling-house, nor does it affect the sale of newspapers.

The above provision regarding trading elsewhere

than in shops does not apply in rural districts, including towns within such districts, of Northern Ireland or the Irish Free State.

4. Mixed Businesses

Special provisions are made respecting shops where several trades or businesses are carried on, some of which are required to be closed on a half-holiday or at fixed hours on other days of the week, while others are not so required, under which the shopkeeper is allowed to keep his shop open after the closing hour for the trades or businesses not required to be closed, for those trades or businesses only. Compliance with any conditions laid down by the Home Office or the local authority is required. As a matter of fact, the Home Office has laid down the conditions that where a shop is kept open on a half-holiday for one of the exempted trades a notice shall be posted prominently both inside and outside the shop that the shop is closed except for the trade or business of [*specified*], and so far as is reasonably practicable no goods in connexion with the trades or businesses required to be closed are to be exhibited either inside or outside the shop. It is competent for local authorities to make similar conditions in their Closing Orders.

These special provisions regarding mixed businesses do not apply in rural districts of Northern Ireland or the Irish Free State, and only one of them, which is contained in Section 10 (2) of the Shops Act, 1912, applies in towns within the said rural districts.

5. Post Office Business

Where Post Office business is carried on in any shop in addition to any other business the 1912 Act applies to that shop subject to the following modifications:

(*a*) If the shop is a telegraph office the obligation to close on the weekly half-holiday does not apply to the shop so far as relates to the transaction of Post Office business thereat:

(*b*) Where the Postmaster-General certifies that the exigencies of the postal service require that Post Office business should be transacted in any such shop at times when the shop would be required to be closed for the weekly half-holiday, or under conditions not authorized by Section 1 of the Act, the shop shall, for the transaction of Post Office business, be exempted from the provisions of the Act to such extent as the Postmaster-General may certify to be necessary for the purpose:

Provided that in such cases the Postmaster-General shall make the best arrangements that the exigencies of the postal service allow with a view to the conditions of employment (weekly half-holiday and meal-times) of the persons employed being on the whole not less favourable than those secured by the Act:

(*c*) The provisions contained in any Closing Order imposing terms or conditions on the keeping open of any such shop after the closing hour for the transaction of Post Office business are subject to the approval of the Postmaster-General.

Except as stated above, nothing in the Act applies to Post Office business or to any premises in which Post Office business is transacted.

Paragraph (*c*) above, as affecting *Great Britain*, was repealed by the Shops Act, 1928.

The foregoing provisions relating to Post Office business do not apply in rural districts of Northern Ireland or the Irish Free State. In towns within such districts only paragraph (*c*) applies.

6. Sunday Closing of Hairdressers' and Barbers' Shops

In *Great Britain* no person, other than a person of the Jewish religion, can lawfully carry on the business of a hairdresser or barber on Sunday, except that he may at any time for the purposes of that business attend any person—(*a*) in any place, if that person is unable by reason of bodily or mental infirmity to go to the place where the business is carried on; or (*b*) in any hotel where the person is residing; or (*c*) in any sea-going ship.

But nothing in the above exemption provisions can authorize the employment of any shop assistant in or about the business of a shop at any time when it would, under the Shops Act, 1912 to 1928, be unlawful for him to be so employed.

Any person of the Jewish religion may carry on the business of a hairdresser or barber on Sunday on the conditions that: (*a*) he does not carry on the business on Saturday; and (*b*) he gives previous notice to the local authority of his intention to carry on the business on Sunday; and (*c*) if he carries on the business in any shop he must keep conspicuously posted in the shop a notice stating that it is open on Sunday but not on Saturday for the purposes of the

business. Where these arrangements are made for Sunday business certain consequential modifications in the application of the provisions of the 1912 Act regarding the day of the weekly half-holiday for shop assistants and for closing have effect.

V. Enforcement of the Acts

Duty of Local Authority. It is the duty of every local authority to enforce within their district the provisions of the Shops Act and of the Orders made thereunder, and for that purpose to institute and carry on such proceedings in respect of failures to comply with or contraventions of the Acts and Orders as may be necessary to secure the observance thereof, and to appoint inspectors.

Powers of Inspectors. An inspector so appointed is given for the purposes of his powers and duties in relation to shops all the powers conferred in relation to factories and workshops on inspectors by the Factory and Workshop Act, 1901, and an inspector may, if so authorized by the local authority, institute and carry on any proceedings under the Acts on behalf of the authority.

Modifications in Northern Ireland and the Irish Free State. Under Section 21 (5) of the Shops Act, 1912, and the fourth schedule thereto, several modifications of the provisions of that Act relating to enforcement, prosecution of offences, and recovery of fines are made in the case of rural districts, including towns within such districts, of Northern Ireland and the Irish Free State.

Meaning of 'Local Authority.' The expression

'local authority' is defined in Sections 13 (2), 20 (second paragraph), and 21 (2) of the Shops Act, 1912, with reference to England and Wales, Scotland, and Northern Ireland and the Irish Free State, respectively. By these definitions we derive what may be described as the 'Shops Acts local authority.'

But under the Shops Act, 1934, the enforcement of several provisions has been committed to other local authorities. Thus, in England and Wales it is the duty of the local authority having power under the Children and Young Persons Act, 1933, to enforce the provisions of that Act as to street trading, to enforce, as part of their duties under that Act, the provisions of the Shops Act, 1934, in their application to street trading. On the other hand, in Scotland the provisions of the 1934 Act concerning street trading are enforceable by the Shops Acts local authority and *not* by the street trading local authority under the Children and Young Persons (Scotland) Act, 1932.

Further, in England and Wales it is the duty of the sanitary authority [1] for every district, as part of their duties under the Public Health Acts, 1875 to 1932, or the Public Health (London) Acts, 1891 to 1932, as the case may be, and in Scotland the duty of the local authority for the purposes of the Public Health (Scotland) Acts, 1897 to 1907 (other than the provisions thereof mentioned in the first schedule to the Local Government (Scotland) Act, 1929), as part of their duties under those Acts, to enforce the

[1] 'Sanitary authority' means, save as respects London, the council of a county borough or county district, and as respects London the sanitary authority for the purposes of the Public Health (London) Act, 1891.

provisions of the Shops Act, 1934, relating to ventilation and temperature of shops and to sanitary conveniences. An inspector appointed by either of these last-mentioned local authorities is given, for the purposes of his powers and duties in relation to shops, all the powers conferred in relation to factories and workshops on inspectors by the Factory and Workshop Act, 1901. Nevertheless, it is the duty of inspectors of the Shops Acts local authority to take note of and if necessary report to the district sanitary authority or the Scottish public health authority, as the case may be, any contravention of the provisions relating to ventilation and temperature of shops and to sanitary conveniences, and for this purpose there are conferred upon them the powers of inspectors under the Shops Act, 1912, already quoted.

Lack of Central Power in case of Local Neglect. No statutory provision is made in case of the neglect or default of the local authority to carry out their duty, except in so far as the rather vague terms of Section 17 (*e*) of the 1912 Act, enabling the Secretary of State to make regulations[1] generally for carrying into effect the provisions of the Acts, may apply in particular cases, or as successful action by *mandamus* may be taken. When local authorities fail to move, as they do sometimes, to secure the observance of the law, there appear to be no powers vested in any central authority to step in and assume responsibility. In this respect the Bills promoted before the passing of the Shops Act, 1912, were much in

[1] Regulations were made on April 1, 1912 (S.R. and O., 1912, No. 316), March 8, 1913 (S.R. and O., 1913, No. 250), and December 4, 1934 (S.R. and O., 1934, No. 1325).

advance of the Act. The Dilke Bill of 1909 was to be enforced by factory and workshop inspectors. The Government Shops (No. 2) Bill of August 1909, and the two revised Bills of March and July 1911, laid the duty of enforcement upon the district local authorities, but provided in case of their default for the factory inspector or other person to step in and act instead.

General Position not known. Another weakness of the law is seen in the fact that each local authority goes its own way in the formulation and execution of enforcement methods, and no regular reports are furnished to the central authority by the local authorities as to the results of their work. As we have seen, certain Orders made under the Act of 1912 have to be confirmed by the Secretary of State, but other Orders under that Act and all the Orders that may be made under the amending Act of 1928 do not require this confirmation, and the Home Office is not kept informed of them. Similarly, there is no official information as to the extent of the adoption of the 1913 amending Act by occupiers of refreshment premises. Having regard to these points, it will be obvious that an adequate survey of the general situation throughout the country regarding the administration and enforcement of the Acts, which would be of great service to all concerned with shop life, cannot be made.

Offences. All offences against those provisions of the Shops Acts which are within the jurisdiction of the Shops Acts local authority must be prosecuted, and all fines recovered, in like manner as offences and fines are prosecuted and recovered under the Factory

and Workshop Act, 1901, and appropriate sections of that Act are applied accordingly.

Two important points remain to be noted here regarding liability for offences: (*a*) where an offence for which the occupier of a shop is liable under the Acts has in fact been committed by some manager, agent, servant, or other person, such manager, agent, servant, or other person is liable to the like penalty as if he were the occupier; (*b*) where the occupier is charged with an offence he is entitled upon information duly laid by him to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge, and if, after the commission of the offence has been proved, he proves to the satisfaction of the court that he has used due diligence to enforce the execution of the Acts, and that the said other person has committed the offence in question without his knowledge, consent, or connivance, the said other person must be summarily convicted of such offence, and the occupier exempted from any fine.

Amount of Penalties. The penalties that may be imposed for offences against the Acts vary according to the nature of the infringements. For the reader's convenience they are set out in tabular form on the next page.

It will be observed that the three most recent Acts increased the financial punishment to be inflicted upon persons convicted of non-compliance with those laws. The 1928 Act (in *Great Britain*) also augmented the penalties for offences against Section 5 of the 1912 Act, as shown in the table. The step taken by Parliament, in the 1934 Act, of stiffening

Penalties for Contraventions of Shops Acts

Act	Number and Subject-matter of Section contravened	Penalty, not exceeding the Amount stated in each Case			
		Offence			
		1st	2nd	3rd	Subsequent
		£	£	£	£
1912	1. Assistants' Half-holiday and Mealtimes; also Fifth Schedule, Special Conditions in Retail Liquor Shops in Northern Ireland and Irish Free State .	1	5	10	10
1912	2. Young Persons' Hours of Employment in Northern Ireland and Irish Free State: (*a*) For each young person unlawfully employed .	1	1	1	1
	(*b*) For failing to comply with provisions as to notices	2	2	2	2
1912	3. Seats for Female Shop Assistants	3	1 min. 5 max	1 min. 5 max.	1 min. 5 max.
1912	4. Weekly Half-holiday Closing of Shops	1	5	10	10
1912	5. Shops Closing Orders: (*a*) In Great Britain . .	5	20	20	20
	(*b*) In Northern Ireland and Irish Free State . .	1	5	20	20
1913	1. Alternative Conditions of Employment in Refreshment Premises	1	5	10	10
1928	Any of the provisions of the Act .	5	20	20	20
1930	Any of the provisions of the Act .	2	20	20	20
1934	1. Young Persons' Hours of Employment. For every person in respect of whom contravention occurs	10	10	10	10
1934	3. Restrictions on Night Employment of Young Persons: For every person in respect of whom contravention occurs	10	10	10	10
1934	7. (*a*) Keeping of Records or Exhibition of Notices: For every day on which contravention occurs or continues . . .	5	5	5	5
	(*b*) Making False Entries in Records or Notices or wilfully omitting Entries required	Imprisonment for term not exceeding three months or a fine of £20, or both such imprisonment and fine.			
1934	10. Requirements as to Sanitary or other Arrangements in Shops	Fine not exceeding £20, or, in case of second or subsequent conviction in respect of same requirement, a fine not exceeding £50, or £5 for every day since first conviction in respect of that requirement, whichever is the greater.			

the penalties attached to the more serious offences—namely, those concerning conditions of employment—was absolutely necessary. Hitherto there has been exhibited by some types of employers a callous disregard of the legal and human rights of shop-workers and particularly of young persons employed in or about the business of shops. Without being vindictively oppressive the penalties which may now be imposed should serve as salutary warnings to would-be offenders and act as deterrents to further infractions of the law.

CHAPTER III

CHILD AND JUVENILE LABOUR LAWS

I. Origin and Progress

THE provisions of the Shops Acts, 1912 and 1934, relating to the employment of young persons under eighteen years of age, described in Chapter II, are supplemented by other enactments regulating child and juvenile labour in non-industrial occupations and street trading by young persons, the regulation being, in form, a combination of statutory and by-law rules originating in the Employment of Children Act, 1903.

1. The First Stage of Regulation

In the first stage of regulation the Act of 1903 applied throughout Great Britain and Ireland, though as affecting Scotland it had to be read subject to certain employment provisions of the Scottish Education Acts of 1878 and 1901. The general purpose of the Act, according to a Home Office circular to local authorities dated November 14, 1903, was to provide means for regulating the employment of children in those occupations in which it had hitherto been unregulated, and, speaking generally, its provisions were to apply to those occupations outside the Factory and Mines Acts, such as work in and about shops (chiefly errand-running, delivering parcels, milk, newspapers, etc.)

and street trading. The measure was passed with a view to safeguarding the health and morals of young children so employed, and to avoid serious interference with their education. Parliament, in the Act, laid down general restrictions applicable to all employment of children and further conferred upon local authorities large powers of imposing by by-laws additional restrictions, either general or for particular occupations.

The magnitude of the evil of unregulated child labour prior to the passing of the Act was revealed by the Report of the Employment of School-children Committee, 1901,[1] in which it was stated [2] that in England and Wales a substantial number of children, amounting probably to 50,000, were being worked more than 20 hours a week in addition to 27½ hours at school, that a considerable proportion of this number were being worked 30, 40, and some even 50 hours a week, and that the effect of this work was in many cases detrimental to their health, their morals, and their education, besides being often so unremitting as to deprive them of all reasonable opportunities for recreation.

The compulsory provisions of the Act undoubtedly had important results of a beneficial character, but it appears clear that during the decade following the passing of the Act local authorities were exceedingly slow in making and enforcing by-laws by which the direct requirements of the law could be supplemented. A considerable body of evidence in proof of this was given before the Departmental Committee on the Employment of Children Act,

[1] Cd. 849. [2] P. 18.

1903, which reported in 1910.[1] From figures compiled and published in 1914 [2] it appears that in the ten years 1904–13 out of 329 authorities in England and Wales only 98 had made by-laws regulating general employment and 131 respecting street trading, so that there were 231 authorities without general employment by-laws and 198 without street trading by-laws. The position was stated to be even worse in Scotland and Ireland. Various reasons were adduced for this unsatisfactory position, including the lack of pressure on the part of Government Departments concerned, local apathy and ignorance, difficulties of local finance, and the traditional opposition of vested interests seriously concerned with every attempt to terminate or modify the exploitation of cheap juvenile labour. "The old worn-out objections of the employers of 100 years ago who were advocates of child labour still had to be met [in 1908], though the facts have been against them." [3]

Though the general position was serious up to 1914, it was greatly aggravated during the War, when child life was freely sacrificed in the conflict of the nations. We cannot even roughly estimate the magnitude of the injury done to school-children during that time of strain and stress, but we do know that it has left its mark, physically and mentally, on many individual survivors.

Let us consider the relevant statistics regarding the employment of school-children in a few of our large towns.

[1] Cd. 5229.

[2] *Child Labour in the United Kingdom*, by Frederick Keeling.

[3] *Annual Report of Chief Medical Officer of the Board of Education*, 1922, p. 125.

A statistical return was made by the *Plymouth* education authority in 1915 on wage-earning school-children in their area. This document showed that the total number of employed children of school age then engaged in work before or after school hours, and on days schools were not open, was 1010, 825 being boys and 185 girls. Their ages ranged from seven to fourteen years, and the number of working hours of these children varied from 10 to 40 per week. The occupational classification indicated that about half the boys and nearly the same proportion of the girls were engaged in going errands; another fourth of the boys were occupied in newspaper delivery; and a smaller group of boys in milk distribution. A fifth of the children worked on Sundays, and nearly a third during the dinner interval on schooldays. About 37 per cent. of the children were working in contravention of the law and the by-laws. It is not surprising that the physical condition of these children and their school-work were adversely affected by the extent of their employment out of school hours.

Early in February 1915, at a meeting of the *Salford* Borough Council, by-laws framed as the result of two years' serious consideration by the Education Committee were submitted to the Borough Council for adoption. It was stated [1] that the by-laws were intended to deal with a crying evil revealed by an inquiry instituted two years earlier as to the number of children working out of school hours, the conditions under which they worked, and the opinions of the teachers. Case after case had

[1] Report in *Daily Citizen*, February 4, 1915.

been reported by the teachers where children had been warned, and even threatened in some cases, by parents and employers, that they must not in any circumstances advertise the fact that they were working. It was discovered that 2363 children of school age were working.

The age distribution was as follows:

Age 13	765
„ 12	668
„ 11	365
„ 10	304
„ 9	171
„ 8	76
„ under 8	14
Total	2363

The ranges of hours worked per week and the number of children in each range were as shown below:

Less than 20 hours	1721
Between 20 and 25 hours	197
„ 25 „ 30 „	178
„ 30 „ 40 „	215
Over 40 hours	52

The 'standard rate of wages' of these children was from half a crown tapering down to pence per week.

In the middle of 1915 it was reported to the *Manchester* Education Committee that 6081 children in attendance at the day schools of the city were employed out of school hours for wages. The percentage of children so employed was 4·9, and their age grouping as set out below:

Age 13	1974
,, 12	1979
,, 11	1072
,, 10	618
,, 9	282
,, 8	122
,, 7	34
Total	6081

The occupational distribution of the children is shown in Table I.

TABLE I

OCCUPATION	BOYS	GIRLS	TOTAL
Delivering milk	620	30	650
,, papers	1209	80	1289
Errands for shops	1616	435	2051
Barbers' shops	319	—	319
Coal-yards	166	—	166
Pawnbrokers	30	—	30
Parents' business	231	48	279
Places of amusement	51	4	55
Domestic service	32	823	855
Nurse girls	—	91	91
Miscellaneous	245	51	296
Totals	4519	1562	6081

In Table II the children are grouped according to the number of hours worked per week outside school hours.

Many of the children worked between 3 and 4 hours on every school evening. Of the total number no less than 5540 worked on Saturdays, and of these 1061 worked over 10 hours on that day, and quite a

TABLE II

PER WEEK	BOYS	GIRLS	TOTAL
Under 20 hours . .	2375	1382	3757
Between 20 and 30 hours .	1378	112	1490
Between 30 and 40 hours .	640	50	690
Between 40 and 50 hours .	112	15	127
50 hours and over . .	14	3	17
Totals . .	4519	1562	6081

number 12 hours or more. The number of children working on Sundays was 1831, of whom 233 were girls. Of the total number of children employed on Sundays 1720 worked from 1 to 5 hours, and the remainder, 131, from 5 to 10 hours; 30 per cent. of these were under twelve.

In addition to the time thus spent in work outside school, the children concerned by each of these reports were also required to attend the schools for 27½ hours each week they were open, which means for the greater part of the year.

Such was the appalling situation in these three towns—typical of the great centres of population throughout the country—a dozen years after the Act had been passed. Before the War concluded things became worse, and were not sensibly improved until a few years later, as the result of the amending legislation to which we are now about to refer.

2. The Second Stage of Regulation

The second period of regulation was reached with the passing of amending legislation, the object of

which was the further improvement of the educational opportunities and the mental and physical powers of the children and young persons concerned.

As applying to England and Wales, the amendment of the Children Act, 1903, was contained in the Education Act, 1918, but for the sake of convenience the employment law as amended was consolidated and incorporated in Part VIII of the Education Act, 1921.

As regards Scotland, the revision was effected by the Scottish Education Act of 1918.

In Northern Ireland the Employment of Children Act, 1903, was repealed and replaced by employment provisions in Part VII of the Northern Ireland Education Act, 1923, which came into full operation in April 1924. These provisions were supplemented by Section 5 of the Intoxicating Liquor Act (Northern Ireland), 1923.

On the other hand, except in regard to employment in industrial undertakings, which is affected by the Employment of Women, Young Persons and Children Act, 1920, applying throughout Great Britain and Ireland, no alteration of the Children Act, 1903, took place in the Irish Free State. It should be added, however, that certain provisions of an Act of 1924 and of two others of 1926 are supplementary to the 1903 Act and by-laws made thereunder. The three Acts referred to are the Intoxicating Liquor (General) Act, 1924,[1] the Street Trading Act, 1926,[2] and the School Attendance Act, 1926.[3]

The vigour and enthusiasm displayed by many of

[1] No. 62 of 1924. [2] No. 15 of 1926. [3] No. 17 of 1926.

the new authorities in *England and Wales* in the exercise of their powers under the amended law contrasted vividly with the supineness and apathy of the local bodies during and even beyond the decade following the passing of the 1903 Act, which has been commented upon earlier. Fortunately for the children the change came early in the post-War period, when the state of public opinion was favourable to the utilization of the fullest possible authority and means of control allowed by the amended legislation. The Home Office afforded some guidance by issuing in July 1919 a circular letter to local authorities in England and Wales indicating the new provisions of the law and suggesting by means of model by-laws how existing by-laws might be revised. The progress made in the making of new by-laws was demonstrated by the fact that by April 1923 out of the then total number of 317 by-law-making authorities in England and Wales no less than 297 had made by-laws which were ultimately confirmed by the Secretary of State.[1] Most of the remaining local authorities without by-laws at the date named made them subsequently, and, according to information supplied by the Home Office, it appears that by October 31, 1933, only seven authorities out of a total of 318 were still without by-laws.

The Home Office Report of April 1923 contained a summary of the general effect of the by-laws. The changes made since that date by the adoption of some additional codes and the amending of existing codes did not alter materially the general trend of

[1] *Report on the Work of the Children's Branch* (Home Office), Part VI, April 1923.

the summary, and therefore it may be taken as descriptive of the situation in the autumn of 1933, the more important features of which are outlined briefly here.

It appears that very extensive use had been made of the power to prohibit employment in certain occupations, such as employment in barbers' shops, sale of intoxicating liquor, selling programmes or other articles, taking tickets or shifting scenery in places of entertainment, employment in billiard saloons or like places, or as attendants in places used for games of chance, etc., in the kitchens of eating-houses or refreshment rooms, in collecting or sorting rags, etc., and in slaughter-houses.

On the other hand, only thirteen authorities had seen fit to raise the statutory minimum age of general employment from twelve to thirteen. Unfortunately fourteen authorities had relaxed the statutory minimum age of twelve by proviso by-laws allowing children under that age to be employed by their parents in specified occupations.

It is also regrettable that a very large proportion of local authorities had utilized their proviso power in relaxing the statutory prohibition of employment of children before the close of school hours, principally in the delivery of milk and newspapers. The great majority of the authorities had limited employment after school to a maximum of 2 hours, which was reduced to 1 hour when the child was also employed before school. In most cases, therefore, the daily hours of work in and out of school totalled $7\frac{1}{2}$, in addition to any time required for school homework.

A very large number of authorities had restricted employment on holidays to a daily maximum, in most cases of 5 hours, and to be only between 7 A.M. and 7 P.M., though on Saturdays further restrictions were imposed in order to secure to the children opportunities for rest and recreation. The statutory maximum period of employment on Sundays is 2 hours, but a substantial majority of authorities had prohibited it altogether, except as regards one or two specific occupations, such as delivery of milk or newspapers within a very restricted period.

Only a small proportion of the authorities had fixed, in addition to a daily maximum of hours, a weekly maximum, mostly one of 16 hours in school term and varying from 15 or 20 hours to 31 or 35 hours outside school term.

Generally speaking, conditions had been attached to children's employment requiring: (1) medical certificate; (2) registration or other means of identification of the children; and (3) provision by the employer of suitable clothing and waterproof footwear for outdoor employment.

The statutory minimum age of employment in street trading was fourteen, but a large number of authorities raised the age to sixteen in the case of girls and to fifteen in the case of boys. (Here it should be interpolated that for England and Wales the statutory minimum age for both girls and boys has now been raised to sixteen, as explained later, so far as employment or engaging in street trading are concerned.) The hours of employment in street trading on weekdays had been restricted mostly between 7 A.M. and 8 P.M., and on Sundays it had

been mostly prohibited, the hours being limited where the employment was permitted. Generally, it was one of the conditions that employment in street trading would not be permitted without a licence.

As regards *Scotland*, at the beginning of February 1932 by-laws in respect to general employment had been made by 34 out of 37 authorities, and this was the position until October 31, 1933, since which date the employment of children has been regulated by the conditions of the Children and Young Persons (Scotland) Act, 1932.

From these by-laws we learn that, as in England and Wales, the great majority of the authorities had prohibited the employment of children in certain occupations or groups of occupations.

Four minimum ages had been fixed for general employment, and, except in one instance, the ages were the same for girls and boys. The ages fixed and the number of authorities by which they were fixed respectively were: age ten, 2; age eleven, 2; age twelve, 21; age thirteen, 8; and one authority fixed the age of twelve for boys and thirteen for girls.

With one exception, all the authorities who had made by-laws allowed employment before 9 A.M. on school-days. In five cases the permission was restricted to boys only, and in one of these to boys from thirteen to fourteen years of age. One authority which fixed the minimum age for general employment at ten years restricted employment before school to children of from twelve to fourteen. Two authorities confined pre-school employment to the delivery of milk or newspapers.

Daily maxima of working hours after school had been fixed. These ranged from 1 to 2½ hours, 2 and 2½ being the most common. In a few cases the period allowed for girls was less than that for boys, and in others the hours varied according to age.

Daily limits of working hours had been prescribed also for Saturdays and holidays. These limits varied from 3 hours up to 8, discrimination being made in favour of girls in several localities. In a few cases differentiation was made according to age.

With regard to *Northern Ireland*, the position in May 1932 (which has remained unchanged to the present time) was that out of 8 local education authorities only 2 had made by-laws relaxing the statutory prohibition of employment before school hours, and permitting such employment, subject to conditions, in certain occupations. Three authorities had made street trading by-laws, 2 of these being those referred to above. In all 3 cases the minimum age for girls being engaged or employed in street trading was sixteen. Street trading, by 2 of the authorities, was made conditional upon the holding of a licence.

In the *Irish Free State* there are 52 by-law-making authorities. In August 1932 official inquiries showed that no by-laws regulating the general employment of children had been made by any of the authorities, and only 3 of them had made street trading by-laws. It is understood that this position remains unaltered. In all 3 cases the street trading by-laws provide: that no person under sixteen can trade in the streets without a licence; that a licence will not be granted to a person under fourteen or such higher age as is

fixed by law as the age up to which school attendance is compulsory; that no girl is to trade in newspapers in the streets. The by-laws also impose other conditions, including stipulations as to the hours in the evening after which street trading is unlawful.

3. The Third and Present Stage of Regulation

We come now to the third and present stage, where further changes have been introduced in the legislative situation in England and Wales, Scotland, and Northern Ireland, leaving the Irish Free State unaffected.

The amended law for England and Wales was contained in the first instance in the Children and Young Persons Act, 1932. This and certain other Acts, however, were subsequently consolidated in the Children and Young Persons Act, 1933. Part II of this Act and Part IV of the Children and Young Persons (Scotland) Act, 1932, both of which came into operation on November 1, 1933, embody the new protective codes for England and Wales and Scotland respectively. Except for a few slight differences explained later, the two codes establish the same statutory rules and by-law powers throughout Great Britain.

As affecting England and Wales, the new Act makes little change in the substance of what was contained in Part VIII of the Education Act, 1921. Generally speaking, it repeals and re-enacts most of the previous provisions in a clearer style. A new general restriction which most local education authorities had already anticipated by by-laws limits

out-of-school employment on school-days to a maximum of 2 hours. By-law powers are also increased. Another change, also anticipated to a considerable extent by by-laws, is the raising of the minimum age of employment—and now also of *engaging*—in street trading from fourteen to that of sixteen. Powers are also given to the local authorities to deal further with street trading in the case of young persons under eighteen years of age.

As previously stated, the employment of children and young persons in Scotland was affected by certain provisions of four enactments in the second stage of regulation—namely, the Scottish Education Acts of 1878, 1901, and 1918, and the Employment of Children Act, 1903. These have now given way to the Children and Young Persons (Scotland) Act, 1932, the counterpart of the English measure. A useful simplification of the law has thus been brought about which should be greatly appreciated by local administrators. It will help also to bring up backward areas to the level of more progressive localities.

Under a provision of the revised law an entirely new power has been conferred upon local authorities in England and Wales and Scotland to make by-laws with respect to the employment of juvenile persons, not being children, under the age of eighteen years in certain occupations hitherto only partly regulated or not regulated at all by legislation. This new provision is subject to the laying in draft before both Houses of Parliament of an Order of the Secretary of State, appointing a date for it to come into operation, and the Secretary of State cannot make the Order until the draft has been approved

by Resolutions passed in the same session of Parliament by both Houses.

In Northern Ireland paragraph (*b*) of the proviso to Section 36 (1) in Part VII of the Education Act of 1923 empowered an education authority to grant exemptions from school attendance in individual cases, enabling children between the ages of twelve and fourteen to be employed at specified times and in specified occupations, upon specified conditions requiring that any such child must attend school on school-days other than those on which the child was so employed. This proviso was repealed by Section 20 of the Northern Ireland Education Act, 1930. Section 21 of the latter Act also amended Section 46 (2) of the 1923 Act. An Act was also passed in July 1929 under the title of the Street Trading (Regulation) Act (Northern Ireland), 1929, to enable certain local authorities to regulate the carrying on of trading in streets within their areas and for purposes connected therewith. Nothing in this Act prejudices the street trading provisions of Part VII of the Northern Ireland Education Act, 1923.

II. Present Regulation

From the preceding historical sketch we see the course legislation has followed. It is now necessary to set forth the essential features of present-day regulation of child and juvenile labour in so far as it deals with work in or in connexion with distributive or commercial employment and street trading. All special provisions relating to children taking part in light agricultural or horticultural work, or to

children or juveniles in entertainments or dangerous performances, or to employment abroad, are disregarded for our present purposes. It will be convenient to deal separately and consecutively with England and Wales and Scotland, Northern Ireland, and the Irish Free State.

1. England and Wales and Scotland

Under Part II of the Children and Young Persons Act, 1933, and Part IV of the Children and Young Persons (Scotland) Act, 1932, regulation of the employment of children proceeds first by the prescription of generally applicable statutory rules. Local authorities are then given power, by by-laws, to relax certain of these rules in particular cases. On the other hand, the local authorities are given very wide and extensive powers of *adding* to the statutory restrictions.

Statutory Restrictions on General Employment. It is required that:

1. No child under the age of twelve years shall be employed.
2. No child shall be employed before the close of school hours on any day on which he is required (in Scotland under obligation) to attend school: Provided that by-laws made by the local authority may authorize employment before the commencement of school hours on such a day for not more than 1 hour.
3. No child shall be employed (*a*) before 6 A.M. or after 8 P.M. on *any* day, or (*b*) for more

than 2 hours on any day on which he is required (in Scotland under obligation) to attend school.

(In Scotland the above provision (*a*) is varied to read that no child shall be employed before 6 A.M., and no child shall be employed after 7 P.M. during the period from October 1 to March 31, or after 8 P.M. during the period from April 1 to September 30.)

4. No child shall be employed on any Sunday for more than 2 hours.
5. No child shall be employed to lift, carry, or move anything so heavy as to be likely to cause injury to him.

By-law Powers regarding General Employment. A local authority [1] may make by-laws with respect to the employment of children, and any restriction contained in the by-laws shall have effect in addition to the statutory restrictions stated above.

By-laws so made may distinguish between children of different ages and sexes and different localities, trades, occupations, and circumstances, and may contain provisions:

(*a*) For modifying statutory restriction 2 (already outlined above), so far as such modification is there authorized;

(*b*) For prohibiting absolutely the employment of children in any specific occupation;

[1] In England and Wales the education authority for elementary education; in Scotland the education authority.

(*c*) For prescribing:

(i) The age below which children are not to be employed;

(ii) The number of hours in each day or in each week for which, and the times of day at which, they may be employed;

(iii) The intervals to be allowed to them for meals and rest;

(iv) The holidays or half-holidays to be allowed to them;

(v) Any other conditions to be observed in relation to their employment.

By-law Powers respecting Juvenile Persons. A local authority [1] may make by-laws with respect to the employment of persons under the age of eighteen years, but not being children.

By-laws so made may distinguish between persons of different ages and sexes, and different localities, trades, occupations, and circumstances, and may contain provisions for prescribing:

(i) The number of hours in each day or in each week for which, and the times of day at which, they may be employed;

(ii) The intervals to be allowed to them for meals and rest;

(iii) The holidays or half-holidays to be allowed to them;

(iv) Any other conditions to be observed in relation to their employment.

[1] In England and Wales the county borough council and the county council; in Scotland the education authority.

Nothing in this provision empowers a local authority to make by-laws with respect to:

(*a*) Employment in or about the delivery, collection, or transport of goods, except in the capacity of van boy, errand boy, or messenger;
(*b*) Employment in or in connexion with factories, workshops, mines, quarries, shops, or offices, except in the capacity of van boy, errand boy, or messenger;
(*c*) Employment in the building or engineering trades, except in the capacity of van boy, errand boy, or messenger;
(*d*) Employment in agriculture;
(*e*) Employment in domestic service, except as non-resident daily servant;
(*f*) Employment in any ship or boat registered in the United Kingdom as a British ship, or in any British fishing-boat entered in the *Fishing Boat Register*.

Statutory Restriction as to Street Trading. It is stipulated that:

> No person under the age of sixteen (in Scotland seventeen) shall engage or be employed in street trading: Provided that by-laws made by the local authority may permit young persons who have not attained the age of sixteen (in Scotland seventeen) to be employed by their parents in street trading.

By-law Powers regarding Street Trading. A local

authority [1] may make by-laws for regulating or prohibiting street trading by persons under the age of eighteen, and by-laws so made may distinguish between persons of different ages and sexes and between different localities, and may contain provisions:

(*a*) Forbidding any such person to engage or be employed in street trading unless he holds a licence granted by the authority, and regulating the conditions on which such licences may be granted, suspended, and revoked;

(*b*) Determining the days and hours during which, and the places at which, such persons may engage or be employed in street trading;

(*c*) Requiring such persons so engaged or employed to wear badges;

(*d*) Regulating in any other respect the conduct of such persons whilst so engaged or employed.

Penalties and Legal Proceedings. If a person is employed in contravention of any of the foregoing provisions of the Children and Young Persons Acts for England and Wales and Scotland respectively, or of the provisions of any by-law made thereunder, the employer and any person (other than the person employed) to whose act or default the contravention is attributable is liable on summary conviction to a fine not exceeding £5, or, in the case of a second or subsequent offence, not exceeding £20. It is provided, however, that if proceedings are brought

[1] In England and Wales the county borough council and the county council; in Scotland the education authority.

against the employer, the employer, upon information duly laid by him and on giving to the prosecution not less than three days' notice of his intention, is entitled to have any person (other than the person employed) to whose act or default he alleges that the contravention was due brought before the court as a party to the proceedings, and if, after the contravention has been proved, the employer proves to the satisfaction of the court that the contravention was due to the act or default of the said other person, that person may be convicted of the offence; and if the employer further proves to the satisfaction of the court that he has used all due diligence to secure that the provisions in question should be complied with, he is to be acquitted of the offence.

Where an employer seeks to avail himself of the proviso just mentioned the prosecution has the right to cross-examine him, if he gives evidence, and any witness called by him in support of his charge against the other person, and to call rebutting evidence; and the court may make such order as it thinks fit for the payment of costs by any party to the proceedings to any other party thereto.

A person under the age of eighteen years who engages in street trading in contravention of the street trading provisions of the Acts, or of any by-law made thereunder, is liable on summary conviction to a fine not exceeding £1, or, in the case of a second or subsequent offence, not exceeding £2.

Interpretations. The following interpretations made by the Acts must be read in relation to what has been stated:

1. A person who is attending a public elementary

school and who attains the age of fourteen years during a school term shall not be deemed to cease to be a child until the end of that term.

(As regards Scotland, the provision reads: "The expression 'child' shall, as from such day as the Scottish Education Department may appoint, mean instead of a person under fourteen years of age a person under fifteen years of age, and a child under obligation to attend school shall be deemed to attain the age of fourteen or fifteen on the date prescribed for terminating school attendance next succeeding the fourteenth or fifteenth anniversary of his birth, as the case may be.")

2. The expression 'street trading' includes the hawking of newspapers, matches, flowers, and other articles, playing, singing, or performing for profit, shoe-blacking, and other like occupations carried on in streets or public places.

3. The expression 'street' includes any highway and any public bridge, road, lane, footway, square, court, alley, or passage, whether a thoroughfare or not; and, in Scotland, the aforementioned word 'passage' includes common close, or common stair, or common passage.

4. The expression 'public place' includes any public park, garden, sea beach, or railway station, and any ground to which the public for the time being have or are permitted to have access, whether on payment or otherwise.

5. A person who assists in a trade or occupation carried on for profit shall be deemed to be employed, notwithstanding that he receives no reward for his labour.

Earlier Additional Powers Unaffected. Nothing in Part II of the 1933 Act is to affect the provisions of Part IV of the Education Act (England and Wales), 1921, with respect to school attendance, or the provisions of Sections 93, 94, and 95 of that Act which deal respectively with (1) the power of a local education authority for higher education to require suspension of employment of scholars attending continuation schools; (2) the power of a local education authority for elementary education to impose further restrictions on the employment of children in certain circumstances; and (3) restriction on employment of children and young persons attending school. Penalties for offences against these three sections are provided in Sections 96 (as amended) and 97 of the 1921 Act.

(The provisions of the Education (Scotland) Acts, 1872 to 1928, with respect to attendance at school or continuation classes, also remain unaffected by Part IV of the 1932 Act for Scotland.)

Provisions of Acts Additional to those of other Enactments. It is expressly provided that the employment provisions of the Acts shall be in addition to and not in substitution for any enactments relating to employment in factories, workshops, mines, and quarries, or for giving effect to any international convention regulating employment.

2. Northern Ireland

The present legal conditions attached to the employment of children and young persons in Northern Ireland are set out in Part VII of the Education

Act (Northern Ireland), 1923, as amended by the Education Act (Northern Ireland), 1930. These conditions are outlined below, as are also certain other employment provisions in the Intoxicating Liquor Act (Northern Ireland), 1923, and in the Street Trading (Regulation) Act (Northern Ireland), 1929.

The Education Act of 1923 itself imposes restrictions on general employment, but it does not empower the education authority to *add* to these restrictions by by-laws. The only by-law the education authority can make is the proviso by-law referred to in Section 36 (1) (*a*) by means of which one of the statutory restrictions may be relaxed. This modification of permissive powers contrasts unfavourably with the scope allowed to local authorities in England and Wales, Scotland, and the Irish Free State.

Statutory Restrictions on General Employment. Section 36 (1) of the Education Act, 1923, as amended, requires that a child under twelve is not to be employed. A child between twelve and fourteen must not be employed (*a*) more than 3 hours either on a school-day or on Sunday; (*b*) more than 5 hours on any other day; (*c*) before the close of school hours on a school-day; (*d*) on any day before 7 A.M. or after 8 P.M.: Provided that an education authority may make a by-law permitting, with respect to specified occupations and subject to necessary conditions safeguarding the children's interests, the employment of children of twelve or upwards *before* school hours and the employment of children by their parents, but any employment thus permitted on a school-day before 9 A.M. is limited to 1 hour, and

a child so employed before 9 A.M. must not be employed for more than 1 hour in the afternoon.

Section 36 (2) directs that a child under the age of fourteen must not be employed (*a*) to lift, carry, or move anything so heavy as to be likely to cause injury to the child; or (*b*) in any occupation likely to be injurious to his life, limb, health, or education, regard being had to his physical condition.

Under Section 36 (3), if the education authority send to the employer of any child a certificate signed by a duly qualified medical practitioner that the lifting, carrying, or moving of any specified weight is likely to cause injury to the child, or that any specified occupation is likely to be injurious to the life, limb, health, or education of the child, the certificate is admissible as evidence in any subsequent proceedings against the employer in respect of the employment of the child.

Power to impose Further Restrictions. By Section 38 the education authority, if they are satisfied by a report of a duly qualified medical practitioner or otherwise that any child under the age of fourteen is being employed in such a manner as to be prejudicial to his health or physical development, or to render him unfit to obtain the proper benefit from his education, may either prohibit or attach such conditions as they think fit to his employment in that or any other manner, notwithstanding that the employment may be authorized under the other provisions of the Act or any other enactment.

It is the duty of the employer and the parent of any child who is in employment, if required by the education authority, to furnish to the authority such

information as to that employment as the authority may require, and if the parent or employer fails to comply with any requirement of the education authority or wilfully gives false information as to the employment he is liable to a fine not exceeding £2.

Employment and School Attendance. Under Section 39 no person is to employ a child in such a manner as to prevent the child from attending school according to the Act and the by-laws made thereunder and in force in the education area in which the child resides; or, having received notice of any prohibition or restriction as to the employment of a child issued by the education authority under Part VII of the Act, is to employ a child in such a manner as to contravene the prohibition or restriction.

Statutory Restriction as to Street Trading. Section 36 (2) provides that a child under the age of fourteen shall not engage or be employed in street trading.

By-law Powers respecting Street Trading. The education authority under Section 37 may make by-laws with respect to street trading by children and young persons between the ages of fourteen and sixteen, and may by such by-laws:

(*a*) Prohibit such street trading, except subject to such conditions as to age, sex, or otherwise, as may be specified in the by-law, or subject to the holding of a licence to trade to be granted by the education authority;
(*b*) Regulate the conditions on which such licences may be granted, suspended, and revoked;
(*c*) Determine the days and hours during which,

and the places at which, such street trading may be carried on;

(*d*) Require such street traders to wear badges;

(*e*) Regulate generally the conduct of such street traders:

Provided that the education authority, in making by-laws under the section, must have special regard to the desirability of preventing the employment of girls under sixteen in streets or public places.

Offences and Penalties. Section 40 provides that:

1. If any person employs a child or young person in contravention of the foregoing provisions of Part VII of the Act, or of any by-law made thereunder, he is liable to a fine not exceeding £2, or, in the case of a second or subsequent offence, not exceeding £5.

2. If any parent of a child or young person has conduced to the commission of the alleged offence by wilful default, or by habitually neglecting to exercise due care, he is liable to the like fine.

3. If any person under the age of sixteen contravenes the street trading provisions of Part VII of the Act, or of any by-law made thereunder, he is liable to a fine not exceeding £1, and in case of a second or subsequent offence, if a child under the age of fourteen, to be sent to an industrial school, and, if not such a child, to a fine not exceeding £5.

4. In lieu of ordering a child to be sent to an industrial school a court of summary jurisdiction may order the child to be taken out of the charge or control of the person who actually has the charge or control of the child, and to be committed to the

charge and control of some fit person who is willing to undertake the same until such child reaches the age of sixteen, and the provisions of Sections 22 and 23 of the Children Act, 1908, with the necessary modifications, are to apply to any order for the disposal of a child under this provision.

Offences by Agents and by Parents. The following provisions regarding offences by agents and by parents are contained in Section 41:

1. Where the offence of taking a child or young person into employment in contravention of the provisions of Part VII of the Act is in fact committed by an agent or workman of the employer, such agent or workman is liable to a fine as if he were the employer.

2. Where a child or young person is taken into employment in contravention of the provisions of Part VII of the Act on the production, by or with the privity of the parent, of a false or forged certificate, or on the false representation of his parent that the child or young person is of an age at which such employment is not in contravention of those provisions, that parent is liable to a fine not exceeding £5.

3. Where an employer is charged with any offence under the provisions of Part VII of the Act he is entitled, upon information duly laid by him, to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge, and if, after the commission of the offence has been proved, the court is satisfied that the employer had used due diligence to comply with the said provisions, and that the

other person had committed the offence in question without the employer's knowledge, consent, or connivance, the other person must be summarily convicted of the offence, and the employer exempted from any fine.

4. Where it is made to appear to the satisfaction of any officer charged with the enforcement of Part VII of the Act, at the time of discovering any such offence as aforesaid, that the employer had used due diligence to enforce compliance with Part VII of the Act, and also by what person the offence had been committed, and also that it had been committed without the knowledge, consent, or connivance of the employer and in contravention of his order, then the officer must proceed against the person whom he believes to be the actual offender in the first instance without first proceeding against the employer.

Definitions. The expression 'street trading' includes the hawking of newspapers, matches, flowers, and other articles, playing, singing, or performing for profit, shoe-blacking, and any other like occupations carried on in streets or public places.

The expressions 'employ' and 'employment,' used in reference to a child or young person, include employment and occupation in any labour exercised by way of trade or for the purposes of gain, whether the gain be to the child or young person or to any other person.

So far as the writer has been able to ascertain there is no enactment which gives definitions of the terms 'street' and 'public places' with reference to their use in Part VII of the Act, but in Section 131 of the Children Act, 1908, it may be noted that the words

'street' and 'public place' are defined in the same terms as those already given in the case of England and Wales and Scotland earlier in this chapter.

Provisions of Act Additional to those of other Enactments. The provisions of Part VII of the Act are in addition to any enactments relating to the employment of children and young persons in factories, workshops, mines, and quarries, or for giving effect to any international convention regulating the employment of children and young persons.

Minimum Age for selling or delivering Intoxicating Liquor. Section 5 of the Intoxicating Liquor Act (Northern Ireland), 1923, provides that no female under the age of eighteen years must be employed in the sale or delivery of intoxicating liquors.

Penalties for Offences. A person guilty of an offence against the provision mentioned in the last preceding paragraph is liable on conviction in respect of each offence to a fine not exceeding £5, and in the case of a second or subsequent conviction either to a fine not exceeding £10 or, in the discretion of the court, to imprisonment for a period not exceeding three months: provided that no sentence of imprisonment is to be inflicted except upon a person directly responsible for the act constituting the offence.

Additional Regulation of Street Trading. The Street Trading (Regulation) Act (Northern Ireland), 1929, enables certain local authorities to regulate the carrying on of trading in the streets within their areas and for purposes connected therewith. The Act is in operation in all urban districts (other than county boroughs) and towns having commissioners under the Towns Improvement (Ireland) Act, 1854.

Neither of the county borough councils (Belfast and Londonderry) has applied for the extension of the Act to their areas, but, at the request of the appropriate rural district councils, the Act has been declared in force in seven non-municipal towns.

The Act requires that street traders shall not carry on their business from or upon a stationary position at a place in the carriageway or footway of any street without a licence from the local authority. For the purposes of the Act the expression 'street' includes any public place, square, or bridge which is maintained by the local authority. The conditions under which a licence may be applied for, granted, or renewed, the form of the licence, the conditions it may contain, and other matters are set forth in the Act.

We are concerned here only with the relationship of the Act to the street trading provisions of the Northern Ireland Education Act, 1923. In this connexion it should be understood that nothing in the 1929 Act prejudices:

(*a*) The provision contained in Section 36 (2) of the 1923 Act stipulating that a child under the age of fourteen shall not *engage* or *be employed* in street trading;

(*b*) The provision contained in the by-laws of several Northern Ireland education authorities made under Section 37 of the 1923 Act prescribing sixteen as the minimum age for girls *to engage* or *be employed* in street trading;

(*c*) Any other regulations contained in street trading by-laws made under Section 37 of the 1923 Act.

An education authority may, in their by-laws made under Section 37 of the 1923 Act with respect to street trading by persons between the ages of fourteen and sixteen, make such street trading subject to the holding of a licence granted by that authority. In any case where the education authority have made this condition in a territory where a licence is also required under the 1929 Act both licences operate concurrently.

By Section 8 of the 1929 Act any person holding a licence under that Act may employ any other person to assist him in the conduct of his business, no further licence under that Act being required. But every person employed by a licensed street trader must, if the provisions of the 1923 Act apply, hold a personal licence issued under that Act.

3. Irish Free State

As already pointed out, the Employment of Children Act, 1903, still obtains in the Irish Free State, and is supplemented by certain provisions of the Intoxicating Liquor (General) Act, 1924, the Street Trading Act, 1926, and the School Attendance Act, 1926.

Statutory Restrictions on General Employment. Section 3 of the Employment of Children Act, 1903, stipulates:

(*a*) A child under fourteen shall not be employed between 9 P.M. and 6 A.M., subject to a proviso that these hours may be varied by a local authority, by by-law, either generally or for any specified occupation.

(*b*) A child under fourteen shall not be employed to lift, carry, or move anything so heavy as to be likely to cause injury to the child, and shall not be employed in any occupation likely to be injurious to his life, limb, health, or education, regard being had to his physical condition. If the local authority send to the employer of any child a certificate signed by a registered medical practitioner that the lifting, carrying, or moving of any specified weight is likely to cause injury to the child, or that any specified occupation is likely to be injurious to the life, limb, health, or education of the child, the certificate is admissible as evidence in any subsequent proceedings against the employer in respect of the employment of the child.

By-law Powers regarding General Employment. Section 1 of the 1903 Act gives power to a local authority to make by-laws:

(i) Prescribing for all children, or for boys and girls separately, and with respect to all occupations or to any specified occupation:
  (*a*) The age below which employment is illegal; and
  (*b*) The hours between which employment is illegal; and
  (*c*) The number of daily and weekly hours beyond which employment is illegal:

(ii) Prohibiting absolutely or permitting, subject to conditions, the employment of children in any specified occupation.

Statutory Restriction as to Street Trading. Under Section 3 of the Employment of Children Act, 1903, it is provided that a child under eleven shall not be employed in street trading.

By-law Powers regarding Street Trading. A local authority is empowered by Section 2 of the Act of 1903 to make by-laws with respect to street trading by persons under sixteen, and may by such by-laws:

(*a*) Prohibit such street trading, except subject to such conditions as to age, sex, or otherwise, as may be specified in the by-law, or subject to the holding of a licence to trade to be granted by the local authority;

(*b*) Regulate the conditions on which such licences may be granted, suspended, and revoked;

(*c*) Determine the days and hours during which, and the places at which, such street trading may be carried on;

(*d*) Require such street traders to wear badges;

(*e*) Regulate generally the conduct of such street traders.

Provided as follows:

(i) The grant of a licence or the right to trade shall not be made subject to any conditions having reference to the poverty or general bad character of the person applying for a licence or claiming to trade;

(ii) The local authority, in making by-laws under the section, shall have special regard to the desirability of preventing the employment of girls under sixteen in streets or public places.

Definitions. In the 1903 Act the following definitions are to be noted:

1. The expression 'child' means a person under the age of fourteen years.

2. The expressions 'employ' and 'employment,' used in reference to a child, include employment in any labour exercised by way of trade or for the purposes of gain, whether the gain be to the child or to any other person.

3. The expression 'street trading' includes the hawking of newspapers, matches, flowers and other articles, playing, singing, or performing for profit, shoe-blacking, and any other like occupation carried on in streets or public places.

4. The expression 'local authority' means, in the case of an urban district with a population according to the census of 1901 of over 5000, the district council, and elsewhere the county council.

Offences and Penalties. Section 5 of the 1903 Act provides that any person who employs a child or other person under sixteen in contravention of the Act, or of any by-law thereunder, is liable on summary conviction to a fine not exceeding £2, or, in case of a second or subsequent offence, not exceeding £5.

Any parent or guardian of a child or other person under sixteen who has conduced to the commission of the alleged offence by wilful default, or by habitually neglecting to exercise due care, is liable on summary conviction to the like fine.

Any person under the age of sixteen who contravenes the provisions of any by-law as to street trading made under the Act is liable on summary

conviction to a fine not exceeding £1, and in case of a second or subsequent offence, if a child, to be sent to an industrial school, and, if not a child, to a fine not exceeding £5.

In lieu of ordering a child to be sent to an industrial school a court of summary jurisdiction may order the child to be taken out of the charge or control of the person who actually has the charge or control of the child, and to be committed to the charge and control of some fit person who is willing to undertake the same until the child reaches the age of sixteen.

Offences by Agents or Workmen and by Parents. Under Section 6 of the 1903 Act it is laid down that where the offence of taking a child into employment in contravention of the Act is in fact committed by an agent or workman of the employer, such agent or workman is liable to a penalty as if he were the employer.

Where a child is taken into employment in contravention of the Act on the production, by or with the privity of the parent, of a false or forged certificate, or on the false representation of his parent that the child is of an age at which such employment is not in contravention of the Act, the parent is liable to a penalty not exceeding £2.

Where an employer is charged with any offence under the Act he is entitled, upon information duly laid by him, to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge, and if, after the commission of the offence has been proved, the court is satisfied that the employer had

used due diligence to comply with the provisions of the Act, and that the other person had committed the offence in question without the employer's knowledge, consent, or connivance, the other person is to be summarily convicted of the offence, and the employer exempted from any fine.

When it is made to appear to the satisfaction of an inspector or other officer charged with the enforcement of the Act, at the time of discovering the offence, that the employer had used all due diligence to enforce compliance with the Act, and also by what person the offence had been committed, and also that it had been committed without the knowledge, consent, or connivance of the employer, and in contravention of his order, then the inspector or officer has to proceed against the person whom he believes to be the actual offender in the first instance without first proceeding against the employer.

Further Regulation of the Employment of Children. Under the School Attendance Act, 1926, there is an obligation on the parent of every child to cause the child, unless there is a reasonable excuse for not so doing, to attend school.

In addition and without prejudice to any other lawful prohibition of or restriction on the employment of children, the Minister for Education may, under Section 7, by Order, make regulations (which have to be laid before and approved by Parliament) for prohibiting the employment of children to whom the Act applies at such times or places or in such manner as to prevent or interfere with their attendance at school in accordance with the Act or their obtaining proper benefit from such attendance, and

in particular may, in furtherance of that object, by such regulations prohibit or restrict the employment of such children in particular occupations or during particular hours.

In the Act the word 'employment,' in relation to a child, means *employment and occupation* in any labour exercised by way of trade or for the purpose of gain to the child or to any other person.

Penalties for Offences. Any person who employs a child in contravention of a regulation made under the above-mentioned Section 7 of the School Attendance Act, 1926, is guilty of an offence under that Section, and is liable on summary conviction thereof, in the case of a first offence, to a fine not exceeding £2, and in the case of a second or any subsequent offence to a fine not exceeding £5.

Extension of Act to Children of Higher Age. The Minister may, under Section 24, by Order from time to time apply the provisions of the School Attendance Act to children or any class of children who have attained the age of fourteen and have not attained the age of sixteen.

Additional Regulation of Street Trading. Under the Street Trading Act, 1926,[1] and the regulations made thereunder all street traders are required to hold a street trader's certificate, but no such certificate is to be granted to a person under sixteen unless at the time of such grant he so complies or has so complied with the Employment of Children Act, 1903, and by-laws made thereunder that he would, if the 1926 Act had not been passed, be

[1] Applicable in the county borough of Dublin, and also in such other county boroughs and urban county districts as may adopt the Act.

entitled to carry on street trading within the meaning of that Act, and the holding by a person under sixteen of a street trader's certificate granted under the 1926 Act is not to exempt such person from the obligation to fulfil and observe all by-laws made under the Employment of Children Act, 1903, applicable to such person.[1]

For the purpose of the Street Trading Act, 1926, the expression 'street trading' means the selling of goods by retail in a street to passers-by, and includes the offering, exposing, and carrying of goods for such sale; and the word 'street' includes any highway, whether a thoroughfare or not, and any footway adjoining a street, and references to a street include references to any part of a street.

Minimum Ages for selling Intoxicating Liquor. Section 12 of the Intoxicating Liquor (General) Act, 1924, specifies the minimum ages below which young persons must not be employed, or permitted, by any licence-holder to sell any description of intoxicating liquor for consumption on the premises of the licence-holder.

Young persons are placed in three categories. These, and the minimum age specified for each, are shown below:

Category	*Minimum Age*
1. Sister, stepsister, daughter, stepdaughter, or sister-in-law of the licence-holder, residing with him	16
2. Any other female person . .	18
3. Any male person . . .	16

[1] In Dublin a street trader's certificate is not granted to any person under fourteen years of age.

Penalties for Offences. A licence-holder guilty of an offence under the above-mentioned Section 12 of the Intoxicating Liquor (General) Act, 1924, is liable on summary conviction thereof, in the case of a first offence, to a penalty not exceeding £5, and in the case of any subsequent offence to a penalty not exceeding £10. Convictions for offences against the above-mentioned Section 12 of the 1924 Act are to be recorded as provided by the Intoxicating Liquor Act, 1927.[1]

III. Comparative Summary

From the foregoing account of the present laws relating to the employment of children and young persons we are able to make comparisons between the legislation in England and Wales, Scotland, Northern Ireland, and the Irish Free State. These comparisons will be found in the following summary as regards general employment and street trading respectively.

A. General Employment

1. Minimum Age

Statutory minimum age in England and Wales, Scotland, and Northern Ireland [2] is twelve. By-laws may raise minimum age for children in all or any specified occupations or prohibit absolutely employment in any specified occupation in England and Wales and in Scotland, but not in Northern Ireland.

[1] No. 15 of 1927.

[2] In Northern Ireland there is also a minimum age (eighteen) for females employed in the sale or delivery of intoxicating liquors (see Section II of this chapter).

No statutory minimum age in the Irish Free State,[1] but by-laws may fix it.

2. Employment on School-days

Before School Hours. Statutory prohibition of employment of children before close of school hours in England and Wales, Scotland, and Northern Ireland, subject in all three cases to a proviso that by by-law permission may be given in specified occupations, and under safeguarding conditions, for pre-school employment limited to 1 hour, with consequential limitation to 1 hour of employment at the close of the school day.

No statutory prohibition of employment of children before school hours in the Irish Free State.

Prohibited Hours. Statutory prohibition of employment of children before 6 A.M. or after 8 P.M. in England and Wales; before 6 A.M. and after 7 P.M. from October 1 to March 31, or after 8 P.M. from April 1 to September 30 in Scotland; and before 7 A.M. or after 8 P.M. in Northern Ireland. Further prescription of the hours between which employment is illegal may be made by by-law in England and Wales and Scotland, but not in Northern Ireland.

Statutory prohibition of employment of children before 6 A.M. or after 9 P.M. in the Irish Free State. These hours may be varied by by-law. By-laws may further prescribe the hours between which employment is illegal.

[1] There are minimum ages imposed in connexion with the sale of intoxicating liquor, as stated at the end of Section II of this chapter.

Maximum Hours. Statutory maximum number of hours of employment of children in England and Wales and Scotland is 2, and in Northern Ireland 3. By-laws may fix lower maximum in England and Wales and in Scotland, but not in Northern Ireland.

No statutory maximum number of hours in the Irish Free State, but by-laws may fix it.

3. Employment on Sundays

Prohibited Hours. Statutory prohibition of employment of children in England and Wales before 6 A.M. or after 8 P.M.; in Scotland before 6 A.M. and after 7 P.M. from October 1 to March 31, or after 8 P.M. from April 1 to September 30; and in Northern Ireland before 7 A.M. or after 8 P.M. By-laws may further prescribe the hours between which employment is illegal in England and Wales and Scotland, but not in Northern Ireland.

Statutory prohibition of employment of children before 6 A.M. or after 9 P.M. in the Irish Free State. These hours may be varied by by-law. By-laws may further prescribe the hours between which employment is illegal.

Maximum Hours. Statutory maximum number of hours of children is 2 in England and Wales and Scotland and 3 in Northern Ireland. By-laws may fix lower maximum in England and Wales and Scotland, but not in Northern Ireland.

No statutory maximum number of hours in the Irish Free State, but a maximum may be fixed by by-law.

4. Employment on Days other than School-days or Sundays

Prohibited Hours. Statutory prohibition of employment of children in England and Wales before 6 A.M. or after 8 P.M.; in Scotland before 6 A.M. and after 7 P.M. from October 1 to March 31, or after 8 P.M. from April 1 to September 30; and in Northern Ireland before 7 A.M. or after 8 P.M. Further prescription of prohibited hours may be made by by-law in England and Wales and Scotland, but not in Northern Ireland.

Statutory prohibition of employment of children before 6 A.M. or after 9 P.M. in the Irish Free State. These hours may be varied by by-law. By-laws may further prescribe the hours between which employment is illegal.

Maximum Hours. No statutory maximum number of hours of employment of children in England and Wales and Scotland, but maximum may be prescribed by by-law. Statutory maximum number of hours of employment in Northern Ireland is 5.

No statutory maximum number of hours in the Irish Free State, but by-laws may fix it.

B. Street Trading

Minimum Age. Statutory minimum age of employment or engaging in street trading in England and Wales is sixteen; in Scotland seventeen; and in Northern Ireland fourteen. By-laws may permit young persons who have not attained the age of sixteen in England and Wales or the age of seventeen in Scotland to be employed by their parents in street

trading. By-laws may also prohibit or regulate street trading by persons under eighteen in England and Wales and Scotland, and under sixteen in Northern Ireland.

Statutory minimum age of employment in street trading in the Irish Free State is eleven. By-laws may also prohibit or regulate street trading by persons under sixteen.

IV. Results and Possibilities

Statistics as to the extent of child and juvenile labour and the effects of legislation thereon are not compiled and published annually by the responsible Government Departments in England and Wales, Scotland, Northern Ireland, or the Irish Free State. It is the view of the present writer and of other students of the child labour problem that as most of the local authorities keep records relating to the employment of children and young persons it should not be difficult for the central authority to require *all* the local authorities to do so. Based on such records, an annual report should be made by each local authority to the appropriate Government Department giving essential figures as to the extent of child and juvenile employment, along with such additional information as may be necessary to indicate clearly the steps taken by the local authority to carry out their duties and powers under the law. It is only by some such procedure as this that an adequate survey may be made nationally each year upon which to found a judgment as to the effectiveness or otherwise of the legislation in force.

It appears clear from such records of local authorities as are available that in many towns an enormous diminution in the numbers of children employed out of school hours and of young persons occupied in street trading came about in the second stage of regulation.[1]

But, notwithstanding the welcome change in the situation in many areas, it is an astonishing fact that towards the end of 1931, when the replies to special inquiries made to local authorities were summarized by the Home Office and the Scottish Education Department, it was found that no less than 79,545 children between twelve and fourteen years of age were recorded as being occupied out of school hours in general employment in Great Britain, 63,308 being in England and Wales and 16,237 in Scotland. In addition, there were in Scotland (in 2 areas) 2300 children employed during potato holiday season in potato-lifting and -harvesting.

In *England and Wales*, of 318 local authorities 20 (9 counties and 11 boroughs and urban districts) failed to furnish returns to the Home Office, so that in all probability the English figures of school-children employed were understated by some thousands.

The 298 local authorities making returns were classified in three groups: namely, 54 counties, 84 county boroughs, and 160 boroughs and urban districts, the number of employed children between twelve and fourteen years of age in each group being

[1] For example, comparative numbers of children occupied in general employment out of school hours in 1915 and 1933 respectively were as follows: Plymouth, 1010 and 91; Salford, 2363 and 127; Manchester, 6081 and 1401; Liverpool, 3082 and 1487.

respectively 27,481, 23,545, and 12,282, the total of 63,308 being made up of 55,465 boys, 6869 girls, and 974 unclassified.

The number of pupils between twelve and fourteen years of age on the register of public elementary schools in England and Wales in March 1931 was 863,767, of whom 445,349 were between twelve and thirteen years of age, and 418,418 were between thirteen and fourteen years of age.

Thus employed children formed approximately $7\frac{1}{3}$ per cent. of the total number between the ages of twelve and fourteen on the schools register.

Analysis of the figures showing the occupational distribution of the employed children discloses that the delivery of newspapers, milk, goods, and parcels and work in shops together absorbed 52,273 children, or about $82\frac{1}{2}$ per cent. of the total number employed.

About $44\frac{3}{4}$ per cent. (28,331) of the employed children were occupied before school.

The approximate hours worked per week were:

	Boys	*Girls*
During school term	$11\frac{1}{2}$	$9\frac{1}{2}$
During holidays	17	14

The corresponding information for *Scotland* is given hereunder.

The number of scholars between twelve and fourteen years of age on the registers of State-aided schools of all types in Scotland at Mid-summer 1931 was 140,395. Of these 71,768 were between twelve and thirteen years of age, and 68,627 were between thirteen and fourteen years of age. Employed children (excluding potato-season workers) between

twelve and fourteen years of age (16,237—13,297 boys and 2940 girls) constituted about 11½ per cent. of the total number of scholars on the registers.

Of the total number employed there were 14,888, or about 91⅔ per cent., occupied in the delivery of newspapers, milk, goods, and parcels and in shops.

The number of children employed before school was 12,189, or about 75 per cent. of the total number of employed children.

The average numbers of hours worked per week were:

	Boys	*Girls*
During school term	11½	9
During holidays	18	14

The position in England and Wales and Scotland in 1931, as demonstrated by the foregoing statistical summary, probably did not change materially up to November 1, 1933, when the amended law of the third and present stage of regulation began to operate.

Under both the obligatory and permissive parts of this law there are considerable opportunities for further advance made possible in the regulation of child and juvenile employment. Additional restrictions may be imposed by by-laws, which, if properly enforced, will result in a further reduction of the volume of child employment, and thus bring nearer the statutory prohibition of all employment for children of school age.

It is a hopeful sign that most of the local authorities to-day are prepared to utilize their by-law powers to extend the statutory protection. The progress so far registered has been made possible only by the

growth and support of a stronger public interest in all that concerns the welfare of young people. It is vital that this enhanced interest in and support of continual efforts to improve the physiological and mental powers of our young people shall be sustained, for, as Sir George Newman said, in comparing the conditions prevailing in this generation with those of 1816–42:

> There are more children to-day, the cruelties of the early industrial system affected only a fraction of those affected now, the standard of comfort and of education is higher, the knowledge of science and the effect of long hours and premature labour is more exact and convincing, the expectation of life is longer and its demands greater. The responsibilities of citizenship have expanded, human values have risen, and the personality and 'group-mind' of the workers are becoming the dominant factor in industry. All this means that, if we desire to secure maximum capacity and productive output, we have got to bring science and humanitarianism to bear upon the needs and aspirations of the young worker.[1]

Complete co-operation of all the forces interested in the question is required for the proper observance of the law, so that the standard of child life shall be raised throughout the whole country. Though the results may be incalculable, they will be discernible in a better-educated democracy, in a higher standard of individual and general health, and in economic advantages to young persons who have left school and to adult workers by the withdrawal of large numbers of school-children from the labour market.

[1] *Annual Report of Chief Medical Officer of the Board of Education*, 1922, p. 125.

CHAPTER IV

LAW RELATING TO FINES AND DEDUCTIONS

HISTORICAL records of shop life have much to tell about lists of house and shop rules, breaches of which involved the unfortunate assistants in financial loss by way of disciplinary fines and deductions from their wages or salaries. Happily the fining system has been greatly reduced in extent, though it still obtains and causes much dissatisfaction in some establishments. As regards assistants in co-operative stores, the ordinary kinds of disciplinary fines are almost entirely absent, but there are fines of another type, which in their way work as much, if not greater, injustice—namely, penalties imposed in connexion with differences between customers' purchase checks and cash. These are often the result of defects in the system of working or arise by errors or omissions in the ordinary course of business, but particularly in those periods of exceptional pressure experienced by most shops at certain times of the year, with even the most careful shop assistants. It is sometimes the case that these differences are only nominal in character, and there can be no doubt that wherever there is punishment for mistakes alone the element of a disciplinary fine enters into the relationship between the employer and the assistant.

Truck Act, 1896

Prior to the passing of the Truck Act, 1896, the state of the law with regard to the matter of fines and deductions by way of fines was in an uncertain position owing to the varying interpretations given in cases decided in the Court of Appeal and the House of Lords. The Act of 1896 laid down new regulations as to the circumstances and conditions under which deductions or payments could be made in respect of fines. Shop assistants were not included along with workmen within the scope of the earlier Truck Acts, but they had conferred upon them specifically some part of the protection contained in the Act of 1896, as explained hereunder.

1. Requirements of the Act

Contract Conditions. An employer must not make any contract with any shop assistant for any deduction from the sum contracted to be paid by the employer to the shop assistant, or for any payment to the employer by the shop assistant, for or in respect of any fine, unless—

(*a*) The terms of the contract are contained in a notice kept constantly affixed at such place or places open to the shop assistant and in such a position that it may be easily seen, read, and copied by any person whom it affects; or the contract is in writing signed by the shop assistant; and

(*b*) The contract specifies the acts or omissions in respect of which the fine may be imposed,

and the amount of the fine or the particulars from which that amount may be ascertained; and

(*c*) The fine imposed under the contract is in respect of some act or omission which causes or is likely to cause damage or loss to the employer or interruption or hindrance to his business; and

(*d*) The amount of the fine is fair and reasonable, having regard to all the circumstances of the case.

An employer must not make any such deduction or receive any such payment unless—

(*a*) The deduction or payment is made in pursuance of, or in accordance with, such a contract as aforesaid; and

(*b*) Particulars in writing showing the acts or omissions in respect of which the fine is imposed and the amount thereof are supplied to the shop assistant on each occasion when a deduction or payment is made.

Penalty. An employer who enters into any contract or makes any deduction or receives any payment contrary to the Act is guilty of an offence against the Truck Act, 1831, and is liable to the penalties imposed by Section 9 of that Act as if the offence were an offence in that section mentioned. These penalties are: for the first offence, a sum not exceeding £10; for the second offence, an amount not exceeding £20 nor less than £10; and in case of a third offence the employer is deemed guilty of a

misdemeanour, punishable by fine only, not exceeding £100.

Recovery of Payments or Deductions. A shop assistant may recover any sum deducted by or paid to his employer contrary to the Act, provided that proceedings for such recovery are commenced within six months from the date of the deduction or payment sought to be recovered, and that where he has consented to or acquiesced in any such deduction or payment he shall only recover the excess which has been deducted or paid over the amount, if any, which the court may find to have been fair and reasonable, having regard to all the circumstances of the case.

Worker to be supplied with Copy of Contract. The employer of any shop assistant who is party to a contract under the Act must, at the time of making the contract, give the shop assistant a copy of it, or of the notice containing its terms, and a shop assistant who is party to any such contract is entitled, on request, to obtain from the employer free of charge a copy of the contract or of the notice containing its terms.

Register of Deductions or Payments. Every employer who has made any contract purporting or intending to operate as a contract under the Act is required to keep a register of deductions or payments, in which he must enter every deduction or payment for or in respect of any fine purporting to be made under any such contract, specifying the amount and the nature of the act or omission in respect of which the fine was imposed.

Penalty for Non-compliance. Any person who fails to comply with the provisions of the Act outlined in

the two immediately preceding paragraphs is liable on summary conviction to a fine not exceeding forty shillings.

2. Meaning of Certain Expressions

Meaning of 'Fine.' The Act itself does not lay down any definition of 'fine,' nor does there appear to be any case decided by the courts on this specific point. Mr Justice Kenny, in the course of statement of his opinion,[1] after referring to the terms of the first section of the Act, said that it did not contain any definition of a fine, nor did it supply any test for arriving at its statutory meaning. He averred, however, that the ordinary and popular meaning of the word 'fine' imported a penalty for an act of commission or omission. It was possible to impose it in at least two ways—namely, by the exacting of a payment or by a deduction.

Meaning of 'Fair and Reasonable.' As was pointed out in the report of the Departmental Committee on the Truck Acts,[2] one of the chief difficulties that have arisen under the Act is the determination of the question, in any particular instance, of whether a fine is "fair and reasonable, having regard to all the circumstances of the case." The Act itself furnishes no guidance upon the question, and different views are entertained in regard to it by different courts. In practice the employer frequently decides the question according to his own view. A shop assistant who is aggrieved by his employer's decision is placed in a position of real difficulty, for there is no inspector of a national or local authority available to assist him,

[1] In Deane *v.* Wilson (1906). [2] Cd. 4442 (1908), p. 29.

and he is reluctant to take legal proceedings on the grounds of cost and doubtful success. There is also ever present the fear of victimization. The only real protection for the assistant is that afforded by membership of an active and powerful trade union capable of resisting the imposition of unfair and unreasonable fines, or of taking appropriate steps by legal action to challenge such fines; or, better still, of preventing entirely the operation of fining systems.

Meaning of 'Shop Assistant.' The meaning of the expression 'shop assistant' is not defined by the Act, and, so far as the writer is aware, there is no decision of the higher courts giving an authoritative interpretation. For the purposes of the Shops Acts, 1912, 1928, and 1930, a 'shop assistant' is defined as a person wholly or mainly employed in a shop in connexion with the serving of customers or the receipt of orders or the dispatch of goods. Under the Shops Act, 1913, there is an extended definition. As we have seen in Chapter II, the Shops Act, 1934, for the purposes thereof, has widened occupational scope in such a way as to include in 'employment about the business of a shop' employment in connexion with any retail trade or business carried on in any place not being a shop. It is reasonably submitted that under the Truck Act, 1896, the term 'shop assistant' has an equally wide application. Indeed, it has been so held by the Grimsby County Court judge.[1] The defendant, Bishop, who was employed as a milk-seller and general agent, had counterclaimed in respect of deductions from his

[1] In Airedale Dairy Co. *v.* Bishop (1913).

wages made by the plaintiff company to satisfy them for his short returns in the sale of milk. For the defendant it was argued that he was a shop assistant and entitled to the protection of the Truck Act, 1896. The judge, in finding for the defendant, is reported [1] to have said:

> The words 'shop assistant' show that the benefit of the Act is not to be enjoyed exclusively by workmen who are only handicraftsmen, but by those who assist in the business of a shop. Here it is said that there was no shop and that Bishop merely obtained his milk from the premises of the company. I think that this is putting too strong an edge on the word 'shop.' In my judgment the Act intends to protect persons who are assisting generally in the service of an employer by facilitating the sale of his goods, whether such goods be sold in a shop, or from a shop, or in any similar way for the benefit of the employer.

The Home Office *Memorandum on the Shops Acts* [2] also points out at page 15 that the provisions of the Truck Act, 1896, *re* fines on shop assistants apply also in the case of *wholesale* shops.

3. Enforcement of the Act

Provision is made for the enforcement of the Act by Government inspectors in the case of factory and mine workers, but no statutory arrangement of any kind is made for such enforcement in shops, and therefore it is left entirely to the shop assistant or his trade union organization to deal with any cases that may arise. The Departmental Committee on the Truck Acts reported in December 1908 in favour of an amendment of the law so as to provide for the enforce-

[1] 48 *Law Journal Newspaper*, 188. [2] Second edition, 1913.

ment of the Truck Act, in regard to fines in shops, by the local shops inspectors.[1] It was also proposed in the Dilke Shops Bill of February 1909 that the Truck Act, 1896, should be enforced in shops by factory inspectors.[2] In 1914 the Government proposed to introduce into Parliament a Bill to consolidate and amend the Truck Acts, but the outbreak of war shelved the project. A like fate befell a private amending and extending Bill, which proposed the abolition of all fines and deductions. The latest proposals as to new legislation to deal more effectively with the question of fines and deductions were contained in a private Shops Bill presented in July 1924.[3] This Bill did not reach the second reading stage. Thus the present law, with all its manifest imperfections and its weakness in application, which have rendered it almost nugatory so far as it concerns the majority of shop assistants, remains as evidence of the backwardness of the legislature in matters vitally affecting a very large and ill-organized section of our working population.

[1] Cd. 4442, p. 78, paragraph 209 (11).
[2] Bill 22, clause 16 (1).
[3] Bill 219, clause 16.

CHAPTER V

LEGISLATION AFFECTING HEALTH CONDITIONS

PRIOR to December 30, 1934, the shops legislation of Great Britain, Northern Ireland, and the Irish Free State contained no provisions concerning sanitary or other health arrangements. These things as affecting persons employed in offices, shops, and warehouses were regulated by the Public Health Acts and, in some cases, by local Acts. As explained in Chapter II, the Shops Act, 1934, without prejudice to the continuing operation of these earlier enactments, laid down rules governing six matters relating specifically to the health and comfort of those employed in or about shops and warehouses and in offices forming part of shop and warehouse premises. Thus, in so far as the Act and the Public Health Acts cover the same ground, there is double protection afforded to the employees concerned. Unfortunately the Act does not apply in Northern Ireland or the Irish Free State. Therefore shopworkers and clerks within those territories, as well as clerks in Great Britain employed in offices not within the ambit of the 1934 Act, are protected *only* by the health safeguards required by the Public Health Acts and local Acts, the generality of which often has the effect of obscuring their significance in respect to shops and offices.

I. Attempts to secure Special Regulation

The passing of the 1934 Act may be regarded justifiably as a partial and not unimportant success resulting from the periodical attempts made during the previous quarter of a century to secure special codes of health provisions for shop and office employees. A short account of these efforts is given below.

Shops. What was known as the Dilke Shops Bill, last introduced into Parliament and given a second reading in 1909, included provisions intended to give shopworkers some of the protection which the law gave to persons employed in factories and workshops. It required, by clauses 12 and 13, that every shop must be: (*a*) kept in a cleanly state and free from effluvia arising from any drain, privy, or other nuisance; (*b*) ventilated in an efficient and suitable manner; and (*c*) provided with sufficient and suitable accommodation in the way of sanitary conveniences, having regard to the number of persons employed there, and also, where persons of both sexes were employed, with proper separate accommodation for persons of each sex. The provisions of the measure were to be enforceable by the factory inspectors. Unfortunately the Government declined to give facilities for further progress with the Bill, but brought in a Bill of their own later in the same year, which provided in clauses 14 and 15 that (*a*) in every room in a shop in which assistants were employed sufficient means of ventilation must be provided and sufficient ventilation maintained; and (*b*) in every shop there must be provided sufficient and suitable

accommodation in the way of sanitary conveniences, having regard to the number and sex of the shop assistants employed, the Secretary of State being empowered by Order to determine what was sufficient and suitable accommodation within the meaning of this provision. Contravention was to be deemed a nuisance liable to be dealt with under the law relating to public health. The provisions were to be enforced by local authorities, and in their default by factory inspector or other person appointed by the Home Secretary. The Bill did not get a second reading.

In March 1911 the Government introduced a new Bill, which provided in clause 13 that in every room in a shop in which assistants were employed sufficient means of ventilation must be provided and sufficient ventilation maintained. The Bill, in the first instance, made no provision for sanitary conveniences. Later, after amendment in Standing Committee "C," sanitary requirements were incorporated. Methods of enforcement were to be the same as those in the Bill of 1909. As finally passed into law towards the end of 1911, the Bill was shorn of all its health clauses and its enforcement in other respects placed solely on the local authorities, without any arrangement being made for other action in case of their default.

A further attempt to introduce legislation regarding health conditions in shops was made by means of a private Bill (219), presented in July 1924. Part III of this amending, extending, and consolidating Bill contained a number of miscellaneous provisions, among which were several dealing with ventilation,

sanitary accommodation, and washing facilities. The standard of suitability and sufficiency of the sanitary accommodation was to be determined by regulations made by the Secretary of State. Non-compliance with or contravention of the provisions relating to ventilation and sanitary accommodation was to be deemed a nuisance liable to be dealt with summarily under the law for the time being in force relating to public health. The local authorities were to execute and enforce the provisions of the Act and the orders and regulations made thereunder, but in case of their default the Secretary of State was authorized to take the steps necessary to secure enforcement. The Bill did not reach the second reading stage.

Railway Offices. The Railway Clerks' Association promoted a Bill in 1911 and subsequently for the purpose of effecting much-needed improvements in railway office accommodation. The Bill dealt with the sanitary condition and overcrowding of offices, the standard of cubical capacity prescribed being higher than that stipulated by the current law. Sanitary conveniences and lavatories were to be provided in the proportion of one of each to every twenty-five persons employed or in attendance at an office. Other conditions of employment were also covered by the Bill, such as restriction of the period of employment, overtime, weekly rest-day, annual and other holidays, and night employment. The provisions of the measure were to be enforced by the factory inspectors. Beyond a first reading the Bill made no progress.

Underground Offices. An unsuccessful attempt was

made in the latter part of 1912 by the trade unions comprising the National Federation of Shopworkers and Clerks to secure the passage of a Bill designed to deal with the evil of underground workrooms. Evidence was produced regarding unhealthy underground offices in most of the large towns in England. This showed that ventilation and lighting were bad, cleaning deficient, and sanitary accommodation either absent or insufficient and unsuitable.

Offices Generally. The first Offices Regulation Bill of a general character was presented to Parliament in July 1923. In an amended form the Bill has been introduced on several occasions since, but it has made no progress. The Bill [1] was last before the House of Commons for second reading on March 16, 1934, when it was rejected by 60 votes to 40 after a long debate. Consisting of twenty-four clauses, it proposes to deal with a wide range of matters, some of which are not provided for adequately or at all under existing legislation, as it applies to offices. In this connexion reference may be made to the provisions for adequate lighting of offices both by day and by night; supply of pure drinking water; measures to be taken for securing and maintaining by day and by night a reasonable temperature in each room in which any person is employed; securing cleanliness in offices; abolition of underground offices; rest rooms for females; means of escape from fire; opening of office doors from inside; restrictions on the employment of young persons. In other respects the Bill sets standards in advance of present legal requirements. For instance, it pre-

[1] As Bill 14.

scribes one sanitary convenience and one lavatory for every fifteen male persons or part of that number employed or in attendance, and the same provision for female persons. If these last-mentioned proposals were carried into law there would be applied generally a standard which at present is in operation only in the most advanced localities, though it would not be more than adequate to the needs of the case. As will be observed from what follows later herein, the minimum standard of cubical capacity of the present law to avoid overcrowding of rooms is 250 cubic feet per person during ordinary working time and 400 cubic feet during overtime. The Bill proposes to raise these numbers to 500 for both ordinary and overtime periods alike, the number being doubled in respect to any office occupied continuously by day and night or with intervals not exceeding 9 hours in any 24 hours, and to any underground office. In the calculation of cubical capacity it is proposed that no space which is more than twelve feet above the floor of any room is to be taken into account. Enforcement would be the duty of the local sanitary authorities, but in case of their default the Minister of Health could take the steps necessary to secure the law's being carried out.

II. Existing Regulation

1. The Public Health Acts

Apart from the health and comfort provisions of the Shops Act, 1934, the only statutory protection for clerical and commercial employees is to be found in the Public Health Acts. The main laws under

which this protection is given are named hereunder:

1. Public Health Act, 1875, which is applicable to England (excepting the Metropolis, save where the Act expressly provides otherwise) and Wales, but does not extend to Ireland or Scotland.
2. Public Health (London) Act, 1891, applicable throughout the County of London.
3. Public Health (Scotland) Act, 1897, applicable throughout Scotland.
4. Public Health (Ireland) Act, 1878, applicable in Northern Ireland and, subject to certain provisions of its Local Government Act, 1925, in the Irish Free State.
5. Public Health Acts Amendment Act, 1890, applying by local adoption Part III thereof to places in England (except London), Wales, and Northern Ireland. In the case of the Irish Free State, Part III of the Act has been made free of the local adoptive procedure and declared to be in full force and effect in every part of the State, as provided by its Local Government Act of 1925.
6. Public Health Acts Amendment Act, 1907, applying by Orders the whole or certain sections of Part III thereof to places in England (except London), Wales, Northern Ireland, and the Irish Free State.

2. Applicability to Shops, Warehouses, and Offices

For our present purposes we are concerned only with the sections of these Acts directly affecting

shops, warehouses, and offices. In some of the relevant sections of the Public Health Acts the words 'factories,' 'workshops,' and/or '*workplaces*' are used, while in others the phrase is: "Every *building* used as a workshop or manufactory, or where persons are employed or intended to be employed *in any trade or business*."

The term 'workplace' is not defined in the Public Health Acts or in the Factory and Workshop Act, 1901. There has been no judicial decision interpreting its precise meaning, but the decision and *dicta* in the High Court case of Bennett *v.* Harding (1900) appear to be generally relied upon. In that case, under Section 38 of the Public Health (London) Act, 1891, it was held that the word 'workplace' is not to be limited to places where something is being manufactured or made, but includes any place where work is done permanently, and where people assemble together to do work permanently of some kind or other. The official view of the Home Office is that the expression includes shops and warehouses, among other places, and the Ministry of Health has expressed the same view with respect to offices. So far as the present writer is able to learn, local authorities have, generally speaking, taken a similar view of their powers, and it has been their custom to act accordingly by applying such powers in respect to offices, shops, warehouses, and other places where work of one kind or another is done or where persons are in attendance, as well as to factories and workshops.

The statutory requirements connected with sanitary conveniences, cleanliness, ventilation, and over-

crowding are dealt with below in their order for each part of Great Britain and Ireland.

3. Sanitary Conveniences

England and Wales (*except London*). In all districts where Section 22 (in Part III) of the Public Health Acts Amendment Act, 1890, is *not* in force Section 38 of the 1875 Act applies, and provides that where it appears to any local authority by the report of their surveyor that any house is used or intended to be used as a factory or building in which persons of both sexes are employed or intended to be employed at one time in any manufacture, trade, or business, the local authority may, if they think fit, by written notice require the owner or occupier of such house, within the time therein specified, to construct a sufficient number of water-closets, earth-closets, or privies and ashpits for the separate use of each sex. Any person who neglects or refuses to comply with any such notice is liable for each default to a penalty not exceeding twenty pounds, and to a further penalty not exceeding forty shillings for every day during which the default continues.

It will be observed that the above-mentioned section applies only where persons of both sexes are employed or intended to be employed at one time. The situation is saved, however, to a considerable extent, by the fact that this out-of-date and inadequate provision has been repealed in nearly all urban districts [1] by the adoptive Section 22 (in Part III) of the 1890 Act being in force, as referred to later. In

[1] See lists in Appendix.

rural districts this section cannot be adopted, but it can be put in force by Order of the Ministry of Health. According to information supplied by the Home Office on November 29, 1934, the section was then in force in thirty rural districts of England and Wales.[1]

All powers given by the 1875 Act are deemed to be in addition to, and not in derogation of, any other powers conferred by Act of Parliament, law, or custom, and such other powers may be exercised in the same manner as if the Act had not been passed; and nothing in the Act exempts any person from any penalty to which he would have been subject if the Act had not passed: provided that no person who has been adjudged to pay any penalty in pursuance of the Act shall for the same offence be liable to a penalty under any other Act. This provision regarding cumulative powers must be read subject to what is stated in the immediately preceding paragraph about the repeal of Section 38 of the 1875 Act where Section 22 of the Public Health Acts Amendment Act, 1890, is in force.

London. Section 38 of the 1891 (London) Act stipulates that every factory, workshop, and *workplace*, whether erected before or after the passing of the Act, shall be provided with sufficient and suitable accommodation in the way of sanitary conveniences,[2] regard being had to the number of persons employed in or in attendance at such building, and also where persons of both sexes are, or are intended to be,

[1] See lists in Appendix.

[2] The expression 'sanitary conveniences' includes ordinary water-closets, earth-closets, privies, and any similar conveniences.

employed, or in attendance, with proper separate accommodation for persons of each sex. Where it appears to a sanitary authority that this section is not complied with in the case of any factory, workshop, or workplace the sanitary authority shall, by notice served on the owner or occupier of such factory, workshop, or workplace, require him to make the alterations and additions necessary to secure such compliance, and if the person served with such notice fails to comply therewith he is liable to a fine not exceeding twenty pounds, and to a fine not exceeding forty shillings for every day after conviction during which the non-compliance continues.

All powers, rights, and remedies given by the 1891 (London) Act are in addition to, and not in derogation of, any other powers, rights, and remedies conferred by any Act of Parliament, law, or custom, and all such other powers, rights, and remedies may be exercised and put in force in the same manner and by the same authority as if the Act had not been passed.

Northern Ireland. In all districts where Section 22 (in Part III) of the Public Health Acts Amendment Act, 1890, is *not* in force Section 48 of the 1878 (Ireland) Act applies and provides that where it appears to any sanitary authority that any house is used or intended to be used as a factory or building in which persons of both sexes are employed or intended to be employed at one time in any manufacture, trade, or business, the sanitary authority may, if they think fit, by written notice, require the owner or occupier of such house, within the time therein specified, to construct a sufficient number of ashpits,

and of water-closets, earth-closets, or privies, for the separate use of each sex. Any person who neglects or refuses to comply with any such notice is liable for each default to a penalty not exceeding twenty pounds, and to a further penalty not exceeding forty shillings for every day during which the default is continued.

The terms of the section set out above are practically identical with those of the corresponding section of the English Act of 1875, and the writer's observations regarding the inadequacy of the terms of the latter section, its repeal where Section 22 (in Part III) of the Act of 1890 is in force,[1] and otherwise its continuing applicability refer equally to the Irish section.

Irish Free State. Section 48 of the 1878 (Ireland) Act no longer operates in the Irish Free State, having been repealed by Section 22 (in Part III) of the Public Health Acts Amendment Act, 1890, being in force throughout the Free State, as declared by the Local Government Act of 1925.

All powers given by the 1878 (Ireland) Act are deemed to be in addition to, and not in derogation of, any other powers conferred by Act of Parliament, law, or custom, and such other powers may be exercised in the same manner as if the Act had not passed; and nothing in the Act exempts any person from any penalty to which he would have been subject if the Act had not passed: provided that no person who has been adjudged to pay any penalty in pursuance of the Act shall for the same offence be liable to a penalty under any other Act. This

[1] See lists in Appendix.

provision respecting cumulative powers is to be read subject to what is stated in the two immediately preceding paragraphs as to the repeal of Section 48 of the 1878 Act where Section 22 of the Public Health Acts Amendment Act, 1890, is in force.

Scotland. Section 29 of the 1897 (Scotland) Act requires that the local authority may, by written notice to the owner or occupier of any factory or building in which persons are employed in any manufacture, trade, or business, require them or either of them, within a time specified, to construct a sufficient number of water-closets or privies for the separate use of each sex; and any person failing to comply with such notice shall be liable for each offence in a penalty not exceeding twenty pounds.

All powers given by the 1897 (Scotland) Act are deemed to be in addition to, and not in derogation of, any power conferred by Act of Parliament not specifically repealed by the Act, or any law or custom; and such last-mentioned powers may be exercised in the same manner as if the Act had not passed, but without prejudice to the powers conferred by the Act.

Some local authorities in Scotland derive supplementary powers under local Acts. Glasgow Corporation, for instance, where necessary, exercises powers conferred upon it by Section 30 of the Glasgow Police (Amendment) Act, 1890, and it is interesting to note that the term 'house' used in the section is defined by the Act to mean a dwelling-house, and includes tenements of houses, schools, stores, factories, and any buildings in which persons are employed. Nothing in the 1897 (Scotland) Act is to supersede,

prejudice, or affect the provisions of any local Act applicable to any burgh or the forms of prosecutions and procedure in use therein, but the provisions of the 1897 Act are to operate to confer additional powers on the local authorities of such burghs, and the before-mentioned forms and procedure may be used therein in all prosecutions under the 1897 Act.

Later and More General Provisions. Where Section 22 (in Part III) of the Public Health Acts Amendment Act, 1890, is in force [1] Section 38 of the English Act of 1875 and Section 48 of the Irish Act of 1878 are repealed, and in lieu thereof Section 22 of the 1890 Act provides that every building used as a workshop or manufactory, or where persons are employed or intended to be employed in any trade or business, whether erected before or after the adoption of this Part of this Act in any district, shall be provided with sufficient and suitable accommodation in the way of sanitary conveniences,[2] having regard to the number of persons employed or in attendance at such building, and also where persons of both sexes are employed or intended to be employed, or in attendance, with proper separate accommodation for persons of each sex. Where it appears to an urban authority on the report of their surveyor that the provisions of this section are not complied with in the case of any building the urban authority may, if they think fit, by written notice require the owner or occupier of any such building to make such alterations and additions therein as may

[1] See lists in Appendix.

[2] The term 'sanitary conveniences' includes urinals, water-closets, earth-closets, privies, ashpits, and any similar conveniences.

be required to give such sufficient, suitable, and proper accommodation as aforesaid. Any person who neglects or refuses to comply with any such notice is liable for each default to a penalty not exceeding twenty pounds, and to a daily penalty [1] not exceeding forty shillings.

Nearly the whole number of urban authorities in England (except London), Wales, and Northern Ireland have adopted Part III of the Act, which includes Section 22, and the section has been in force throughout the Irish Free State from 1925 onward. As already indicated, rural district authorities are not empowered to adopt the section, and, except where it has been declared by the Order of the Minister to be in force, in their areas the provisions of Section 38 of the English Act of 1875 and Section 48 of the Irish Act of 1878 respectively continue to have effect.

Additional Powers. It should be added that a number of local authorities had obtained before 1890 provisions in local Acts similar to those of Section 22 of the 1890 Act, and the Act does not repeal or supersede such local Acts. On the contrary, subject to certain exceptions created by the Act itself, such as the repeal of Sections 38 and 48 of the English and Irish Acts of 1875 and 1878 respectively by Section 22 of the Act, as already stated, it is provided that all powers given to a local authority under the Act are cumulative and deemed to be in addition to, and not in derogation of, any other powers conferred upon such local authority by any Act of

[1] The expression 'daily penalty' is defined by the Act to mean a penalty for each day on which any offence is continued after conviction therefor.

Parliament, law, or custom, and such other powers may be exercised in the same manner as if the 1890 Act had not been passed; and nothing in the Act exempts any person from any penalty to which he would have been liable if the Act had not been passed, provided that no person is liable to pay, except in the case of a daily penalty, more than one penalty in respect of the same offence.

Some local authorities have additional powers by local Acts of Parliament, or by Orders of the Local Government Board (now Ministry of Health), applying provisions of Part III of the Public Health Acts Amendment Act, 1907. The latter confer very wide powers on the local authorities and, among other things, deal with nuisances, closet accommodation, defective drains, etc., and afford facilities for dealing drastically with buildings in or about which the sanitary conditions are such as to endanger or injure personal health.

Standard of Sanitary Accommodation. The Acts do not stipulate any, and there is no recognized standard of the proportion or number of sanitary conveniences to number of persons employed, but in the chief cities and towns throughout the country one to every twenty or thirty is the proportion generally observed, and in one or two notable instances a much more generous provision is made. Many authorities base their standard for offices, shops, warehouses, and other workplaces on the Home Secretary's Factory and Workshop Sanitary Accommodation Order (No. 89) of February 4, 1903, which became effective from July 1, 1903. By this Order it is determined that the accommodation in the way of sanitary conveniences

provided shall be deemed to be sufficient and suitable within the meaning of Section 9 of the Factory and Workshop Act, 1901, if the following conditions are complied with and not otherwise:

1. In factories or workshops where females are employed or in attendance there shall be one sanitary convenience for every 25 females.

In factories or workshops where males are employed or in attendance there shall be one sanitary convenience for every 25 males; provided that

(*a*) In factories or workshops where the number of males employed or in attendance exceeds 100, and sufficient urinal accommodation is also provided, it shall be sufficient if there is one sanitary convenience for every 25 males up to the first 100, and one for every 40 after.

(*b*) In factories or workshops where the number of males employed or in attendance exceeds 500, and the District Inspector of Factories certifies in writing that by means of a check system, or otherwise, proper supervision and control in regard to the use of the conveniences are exercised by officers specially appointed for that purpose, it shall be sufficient if one sanitary convenience is provided for every 60 males, in addition to sufficient urinal accommodation. Any certificate given by an inspector shall be kept attached to the general register, and shall be liable at any time to be revoked by notice in writing from the inspector.

In calculating the number of conveniences required by this Order any odd number of persons less than 25, 40, or 60, as the case may be, shall be reckoned as 25, 40, or 60.

2. Every sanitary convenience shall be kept in a cleanly state, shall be sufficiently ventilated and lighted, and shall not communicate with any workroom except through the open air or through an intervening ventilated space; provided that in workrooms in use prior to January 1, 1903, and mechanically ventilated in such manner that air cannot be drawn into the workroom through the sanitary con-

venience, an intervening ventilated space shall not be required.

3. Every sanitary convenience shall be under cover and so partitioned off as to secure privacy, and if for the use of females shall have a proper door and fastenings.

4. The sanitary conveniences in a factory or workshop shall be so arranged and maintained as to be conveniently accessible to all persons employed therein at all times during their employment.

5. Where persons of both sexes are employed the conveniences for each sex shall be so placed or so screened that the interior shall not be visible, even when the door of any convenience is open, from any place where persons of the other sex have to work or pass; and if the conveniences for one sex adjoin those for the other sex the approaches shall be separate.

4. Cleanliness, Ventilation, Overcrowding

Legal protection in respect of cleanliness, ventilation, and overcrowding is afforded as follows:

England and Wales (*except London*). It is provided by Section 91 of the 1875 Act, among other things, that any factory, workshop, or *workplace* not kept in a cleanly state, or not ventilated in such a manner as to render harmless, so far as practicable, any gases, vapours, dust, or other impurities generated in the course of the work carried on therein that are a nuisance or injurious to health, or so overcrowded while work is carried on as to be dangerous or injurious to the health of those employed therein, shall be deemed to be a nuisance liable to be dealt with summarily in manner provided by the Act.

London. Section 2 of the 1891 (London) Act lays it down, among other matters, that any factory, workshop, or *workplace* which is not kept in a cleanly state

and free from effluvia arising from any drain, privy, earth-closet, water-closet, urinal, or other nuisance, or is not ventilated in such a manner as to render harmless as far as practicable any gases, vapours, dust, or other impurities generated in the course of the work carried on therein that are a nuisance or injurious or dangerous to health, or is so overcrowded while work is carried on as to be injurious or dangerous to the health of those employed therein, shall be a nuisance liable to be dealt with summarily under the Act.

Northern Ireland and the Irish Free State. Section 107 of the 1878 (Ireland) Act requires, among other things, that any factory, workshop, or *workplace* not kept in a cleanly state, or not ventilated in such a manner as to render harmless as far as practicable any gases, vapours, dust, or other impurities generated in the course of the work carried on therein that are a nuisance or injurious to health, or so overcrowded while work is carried on as to be dangerous or injurious to the health of those employed therein, shall be deemed to be a nuisance liable to be dealt with summarily in manner provided by the Act.

Scotland. Section 16 of the 1897 (Scotland) Act stipulates, among other matters, that any factory, workshop, or *workplace* which is not kept in a cleanly state and free from effluvia arising from any drain, privy, water-closet, earth-closet, urinal, or other nuisance, or is not ventilated in such a manner as to render harmless so far as practicable any gases, vapours, dust, or other impurities generated in the course of the work carried on therein that are a nuisance or injurious or dangerous to health, or is so overcrowded while work is carried on as to be

injurious or dangerous to the health of those therein employed, shall be deemed to be a nuisance liable to be dealt with summarily in manner provided by the Act.

Cumulative Powers. The above-mentioned powers are cumulative and deemed to be in addition to, and not in derogation of, any other powers conferred upon the local authority by any Act of Parliament, law, or custom.

Definition of Overcrowding. No standard of cubical capacity in regard to which overcrowding may be judged is laid down in the above sections, but the Factory and Workshop Act, 1901, Section 3 (1), stipulates that a factory and workshop shall be deemed to be so overcrowded as to be dangerous or injurious to the health of the persons employed therein if there is less than 250 cubic feet of space for each person, or less than 400 cubic feet of space during any period of overtime, and these requirements are usually applied by local authorities also to offices, shops, warehouses, and other workplaces.

CHAPTER VI

PRESENT POSITION AND PROPOSED LEGISLATION

I. Hours of Work

Among all the amendments of the law desired by organized shopworkers the most important is the limitation of the hours of work. As we have seen, in spite of the prolonged agitation for such limitation and the repeated introduction of both private and Government Bills for this purpose, the hours of labour of wholesale and retail shop assistants and warehouse workers of eighteen years of age and upward are not yet limited directly by legislation, except in the two special classes of business mentioned in Section III of Chapter II. In those cases the respective limits in force—namely, 72 and 65 hours, exclusive of meal-times—give no real protection, for they legalize conditions more akin to slavery. Yet these standards have remained unchanged since they were fixed in 1912 and 1913.

The working period of all young persons under eighteen years of age in or about shops and warehouses was limited to 74 hours, including meal-times, in any one week, by a provision first embodied in legislation as long ago as 1886. Such a high maximum could not be justified at any time: it is quite out of accord with the more enlightened view which now prevails regarding the number of hours fairly

constituting a week's toil. But for well-nigh half a century the law stood still in this position, and a witness before the Select Committee on Shop Assistants in December 1930 was fully justified in describing it as being "simply an interesting specimen on view in the nation's legislative museum." So far as Great Britain is concerned this provision of the law *is* now a relic of the past, for on December 30, 1934, it gave way to the new terms of regulation contained in the Shops Act of that year. But it still survives as law in Northern Ireland and the Irish Free State.

It is obvious from the above statement that the provisions of the existing law limiting directly the working hours of shop assistants are inadequate in scope and content and have no regard to the realities of shop life in the conditions of the present day. Fortunately other sections of the Shops Acts have furnished means of advance, for it must be admitted that indirectly the working hours of all assistants have been reduced considerably as the combined result of local and general Early Closing Orders, and that many shopkeepers themselves desired and benefited by the increased leisure made possible by the earlier closing of their establishments. There can be no doubt, also, that the application of the general Early Closing Order had a particularly favourable effect upon the negotiations which led to trade union agreements with employers by which maximum working hours were fixed at 48 or less per week in the early part of the post-War period. Where trade union organization has been maintained these agreements, generally speaking, continue to operate, and

it is a matter of great satisfaction that many efforts to extend the hours of sale and, correspondingly, to increase the working hours of shop employees have been repulsed, often with the aid of fair employers who were opposed to the backward step attempted by some of their less progressive colleagues. In the co-operative stores, where trade union organization is strong and influential, the restriction of working hours is naturally general and effective, but in many private firms also, in various parts of the country, a maximum working week of from 44 to 48 hours obtains.

The working hours of clerks and administrative employees are not limited by law, either as regards young persons or adults. As a general rule, however, their working week, by custom or specific agreement, is shorter than that of shopworkers, and varies from 36 to 48 hours according to class of business. Probably the most prevalent working week ranges between 36 and 40 hours.

The figures in Table I, on page 181, demonstrate the position regarding the maximum working hours of distributive and clerical employees in the retail co-operative societies of Great Britain and Ireland.

In the English and Scottish Co-operative Wholesale Societies a working week varying between $38\frac{1}{2}$ and $41\frac{1}{2}$ hours is in operation. The number of clerical and distributive employees in those two societies and in the service of other special types of societies is 12,307.

Therefore the aggregate number of clerical and distributive employees in retail, wholesale, and other

TABLE I

Geographical Section	No. of Societies	No of Members (Customers)	No of Distributive Employees	Maximum Working Hours per Week	
				Shops	Offices
Ireland . . .	26	60,979	1,099	45½	42
Scotland . . .	230	785,472	23,328	48	48
Northern counties .	112	581,917	11,357	44	40
North-eastern and north-western counties .	373	2,295,881	37,330	48	40
Midland counties . .	142	1,006,583	16,078	48	44
London and southern counties . .	118	1,661,055	27,667	48	42–44
South-western counties .	82	316,790	5,413	48	48
Gloucestershire, Herefordshire, South Wales, and Monmouthshire .	67	208,461	4,115	48	46
Totals . .	1,150	6,917,138	126,387	44–48	40–48

types of co-operative societies covered by a maximum working week of 48 hours or less is 138,694.

The important figures cited above respecting the co-operative societies of the country are supported by the relevant facts in regard to other businesses.

In the wholesale and retail distributive trades of London thousands of employees are covered by collective agreements between organized employers and trade unions providing for working hours of 48 or less per week.

In the wholesale distributive trades of Liverpool the working week is 48 hours or less, the larger proportion of employees working 44 hours.

In the wholesale and retail distributive trades of Manchester a working week of 48 hours or less is

substantially in operation, and in the home trade a working week of 44 hours is the rule.

Not only in all co-operative societies and in many capitalist businesses in the three leading cities named above, but throughout the country where organized relationships obtain between employers and trade unions, agreements provide for a working week of 48 hours or under.

Recognition of the changed conditions regarding working hours in commercial employments may be observed in the definitions of the Trade Boards for the milk distributive trade established in England and Wales and in Scotland. Trade Boards do not fix, directly, maximum hours of work, but they are required, in connexion with the applicability of minimum rates of wages, to define the normal hours of work, and overtime payments are prescribed on the basis of hours worked in excess of the declared normal hours of work. The Milk Distributive Trade Board for England and Wales defined the working 'week' as follows:

> In the case of classes of whole-time workers employed by the week or longer period, whose customary working week consists of a number of hours less than 48, but not less than 40, a *week* means a week of the number of hours customarily worked by the class in question. In all other cases a *week* means a week of 48 hours.

The Scottish Milk Distributive Trade Board made a similar definition with reference to shop assistants and clerks.

Thus far we have contemplated the favourable view of the present situation. There is, of course, the unsatisfactory aspect, and abundant evidence shows

that in some branches of distribution in which trade unionism never had a proper footing, or where organization has fallen away, extended hours of work have been allowed to creep in again and to work havoc with the health and comfort of the assistants concerned. The extent of this reactionary movement may be seen from an examination of the facts revealed in three official reports recently published. These documents are the reports of the Select Committee on Shop Assistants,[1] the fourth report of the National Advisory Council for Juvenile Employment (England and Wales),[2] and the sixth report of the National Advisory Council for Juvenile Employment (Scotland).[3]

The reports of the Select Committee on Shop Assistants were made after a lengthy inquiry, in the course of which evidence was received from witnesses who appeared before the Committee, and reports on investigations conducted by representatives of the Home Office and the Ministry of Labour in various parts of the country were considered. For our present purpose it is necessary to refer only to the more salient features of the Committee's main report on the existing situation in regard to working hours and to the recommendations for remedial legislation. From the detailed information given certain outstanding facts emerged which every investigator into the conditions of the distributive trades has invariably discovered—namely, the great lack of uniformity in the hours of work even in shops of the same class and frequently in the same locality,

[1] 176 (1930) and 148 (1931, 3 vols.).
[2] 36–109–4 (January 1932).
[3] 36–9999 (May 1933).

and also the wide disparity between the hours in the best and worst types of establishments.

From the summaries presented by the Committee Table II (see page 185) is compiled, to show in a general way, as regards *normal* working hours per week, *exclusive* of meal-times, for various retail trades [1]

1. The minimum and maximum limits;
2. The approximate averages for the whole country; and
3. The predominant ranges of hours—*i.e.*, the ranges covering the great majority of assistants.

It will be observed that the hours of work in shops dealing in foodstuffs are more protracted than those in other classes of shops. The lower limits of hours in some cases are due to the establishment of a shift system or some similar plan, but generally speaking, as the report indicated, a shorter working week is in operation in shops in country towns and in the central shopping areas of large cities where shops usually shut earlier than in shops in industrial and suburban areas.

For the purpose of classifying the facts given in evidence the Committee defined 'long' hours of work as being between 48 and 60 hours a week, exclusive of meal-times, and 'excessive' hours of work as being over 60 hours, exclusive of meal-times. It is quite clear from the figures quoted in the last column of Table II that in most of the listed trades the normal

[1] The statistics do not include particulars relating to shops belonging to co-operative societies. Information as to these, however, has been given already in this chapter.

TABLE II

Class of Retail Business	Minimum and Maximum Limits	Average for Whole Country	Range of Great Majority of Assistants
Bakers and pastrycooks	44½–75	54	50–58
Boot and shoe	44½–56	48	Less than 50
Butchers	41–66½	55–56	52–60
Chemists and drug-stores	40–64	51–52	48–55
Confectioners (sweets and chocolates)	42–75 or 80	56?	50–60
Cooked food and tripe	42¼–66½	55–56	52–60
Dairies	45–70	52–53	46–58
Departmental stores	43–57	47–48	48 or less
Drapery and clothing	41–60	48 or less	48
Fancy goods and toys	43½–60	49	48 or less
Fishmongers and poulterers	40½–62	54	48–56
Greengrocers, fruiterers, and florists	44–64	55	48–60
Grocers and provision dealers	45¾–64	54	48–56
Hairdressers and barbers	46½–65	53	48–56
Ice-cream merchants	44–73	Over 60	Over 60
Ironmongers and household stores	42½–57	51	46–52
Market traders	—	54?	52–55
Newsvendors, stationers, and booksellers	42–70	52?	46–54
Tobacconists	41–61½	56?	50–60

weekly hours of the great majority of the assistants fell within the first definition of 'long' hours. Of the remaining assistants in the same trades a considerable proportion would be comprised in the second definition of 'excessive' hours.

Some very startling figures of excessive hours were mentioned, a few of which are cited here.

In Glasgow it was found that 72 per cent. of the persons employed in ice-cream shops worked 60

hours or more per week, the average hours being about 67½.

Nearly 24 per cent. of Birmingham pork butchers worked over 60 hours, and nearly 9½ per cent. over 64 hours per week. In Leeds over 8 per cent. of the butchers worked over 65 hours.

Confectionery shops in Glasgow were kept open for very long hours—*i.e.*, from 61 to 100 hours a week, and except where something in the nature of a shift system was in operation the hours of the assistants were excessive. In this trade in South Shields the average hours of employment were 61 a week, and in Doncaster about 7¾ per cent. of the assistants worked between 60 and 65 hours a week.

An extremely bad class was that of the cooked-food and tripe shops, which are exempted from early closing and kept open until the places of amusement close in towns like Southend and Yarmouth. In one of these shops the assistants worked 91 hours, and in two others 80 hours, a week, and *these hours were not unusual.* One-third of the employees in this trade in Leeds worked between 60 and 65 hours a week, and about 9½ per cent. in Birmingham worked 60 to 64 hours.

More than a third of the employees in Glasgow dairies (excluding milk roundsmen and delivery boys) had a working week exceeding 60 hours.

In four shops of fishmongers and poulterers in Great Yarmouth the average working hours were found to be nearly 64¾ per week, the hours being much higher in the season, in one shop rising to 96.

Nearly 16 per cent. of the assistants employed by

greengrocers and fruiterers in Birmingham worked between 60 and 64 hours.

In Leeds 4·2 per cent. of grocery and provision trade assistants worked between 60 and 65 hours weekly.

In the same city 8 per cent. of tobacconists' assistants worked between 60 and 65 hours per week.

On Merseyside it was found that out of a large number of shop assistants chosen at random 15 per cent. worked over 60 hours a week.

The Committee pointed out that if, as seems possible, only 5 per cent. of the shop assistants in Great Britain, numbering between one and two million, worked hours such as those cited, this meant that from 50,000 to 100,000 persons, many of them women and children, were working more than 60 hours a week in shops, and that such hours were unnecessary was shown by the fact that the great majority of shops in all trades could do without them.

Emphasis must be laid on the fact that the working hours referred to up to this point have been normal working hours and that in most, if not all, of the trades many hours of overtime, both regular and seasonal, were worked, as the Committee indicated. Thus 'long' hours and 'excessive' hours became even longer and more excessive.

To a large extent young persons under eighteen years of age were employed during the same normal hours as older persons, and were required also to work overtime. Some very glaring cases noted by the Committee related to girls and boys being employed for 65½, 67½, 69, and 74 hours, including meal-times, and, in the case of van boys, even 80 and 90 hours.

Unhappily, this evidence of the gross exploitation of juvenile labour given to the Select Committee was amply confirmed by the results of the inquiries undertaken by the National Advisory Councils for Juvenile Employment in England and Wales and Scotland respectively, published in the reports already mentioned in this chapter. Both inquiries were concerned with juveniles of fourteen and under eighteen years of age in "unregulated occupations." As a matter of fact, however, many of the 127,392 juveniles dealt with in the returns from the Local Committees for Juvenile Employment in the English inquiry were partly covered by the Shops Acts, and therefore subject to some regulation of hours, though the maximum limit of hours under those Acts was then as high as 74 per week, including meal-times. This applied also to an unspecified number of the 23,350 juveniles included within the scope of the Scottish inquiry.

Table III (see page 189) is compiled from the statistical tables given on pages 8 and 9 of the English report, and summarizes the results of the inquiry in categories of occupations and hours. It will be seen that the weekly hours are set out in two ways: first, inclusive of meal-times and rest periods, and, second, exclusive of those times and periods. The precise net hours, we are informed, could not be derived from the information supplied to the National Advisory Council, but an estimate was made which was believed to give a reasonably accurate picture of the general position.

Table IV, on page 190, is based upon the statistical tables set out on pages 8 and 9 of the Scottish report.

Table III

Occupations	Percentages of Juveniles 14 and under 18 Years of Age whose Normal Weekly Hours of Labour fell within the Undermentioned Categories, and Total Numbers of Juveniles in each and all Occupations shown				
	Up to and including 48 hours	Over 48 and up to and including 54 hours	Over 54 and up to and including 60 hours	Over 60 hours	Total Numbers in each and all Occupations shown
A. Hours including Meal-times and Rest Periods					
Errand boys	8·4	28·1	35·3	28·2	72,848
Errand girls	20·8	35·2	30·9	13·1	4,779
Van boys	17·4	29·9	32·3	20·4	12,692
Warehouse boys	24·6	58·3	13·7	3·4	12,420
Warehouse girls	36·7	42·3	20·0	1·0	6,957
Messenger boys	22·3	39·8	29·9	8·0	6,887
Messenger girls	15·2	57·8	27·0	—	1,681
Petrol-pump boys	17·9	25·2	27·4	29·5	1,951
Ice-cream sellers (boys)	11·3	13·6	11·4	63·7	603
Laboratory assistants (boys)	88·2	10·5	1·3	—	915
All other occupations	23·0	18·8	37·7	20·5	5,659
Total	15·1	32·6	31·1	21·2	127,392
B. Hours excluding Meal-times and Rest Periods					
Errand boys	47·9	31·1	15·6	5·4	72,848
Errand girls	67·2	23·6	7·9	1·3	4,779
Van boys	54·4	28·0	11·5	6·1	12,692
Warehouse boys	85·2	12·0	2·2	0·6	12,420
Warehouse girls	85·0	14·4	0·6	—	6,957
Messenger boys	69·2	24·0	5·7	1·1	6,887
Messenger girls	73·6	25·4	1·0	—	1,681
Petrol-pump boys	49·8	26·0	15·5	8·7	1,951
Ice-cream sellers (boys)	28·8	17·6	26·4	27·2	603
Laboratory assistants (boys)	98·8	1·2	—	—	915
All other occupations	56·6	31·8	8·2	3·4	5,659
Total	57·1	26·9	11·7	4·3	127,392

The occupational list is extended a little beyond that in the English tables, but the figures are similarly arranged, and therefore lend themselves readily to comparisons. Of the 17,929 boys 13,308 were under sixteen years of age, and of the 5421 girls 4049 were under that age.

TABLE IV

Occupations	Percentages of Juveniles 14 and under 18 Years of Age whose Normal Weekly Hours of Labour fell within the Undermentioned Categories, and Total Numbers of Juveniles in each and all Occupations shown				
	Up to and including 48 hours	Over 48 and up to and including 54 hours	Over 54 and up to and including 60 hours	Over 60 hours	Total Numbers in each and all Occupations shown
A. HOURS INCLUDING MEAL-TIMES AND/OR REST PERIODS					
Errand and messenger boys	7·5	15·1	40·2	37·2	13,697
Errand and messenger girls	7·4	19·6	40·3	32·7	4,865
Van boys . . .	10·4	17·6	37·0	35·0	2,971
Warehouse boys . .	8·9	31·3	35·1	24·7	348
Warehouse girls . .	14·1	28·3	30·9	26·7	382
Cinema attendants (boys)	21·0	17·9	22·3	38·8	157
Cinema attendants (girls)	42·0	19·0	10·0	29·0	100
Petrol-pump boys . .	13·9	13·0	38·2	34·9	123
Ice-cream sellers (boys) .	—	—	48·8	51·2	121
Bill-distributors (boys) .	40·8	46·0	13·2	—	76
Bill-distributors (girls) .	—	66·7	33·3	—	30
Firewood-choppers (boys)	—	80·0	4·4	15·6	45
Firewood-choppers (girls)	50·0	—	30·0	20·0	20
Laboratory assistants (boys)	50·0	50·0	—	—	40
Laboratory assistants (girls)	—	100·0	—	—	10
All other occupations (boys)	76·9	4·6	14·0	4·5	351
All other occupations (girls)	7·1	—	85·8	7·1	14
Total, boys . . .	9·7	15·9	38·6	35·8	17,929
Total, girls . . .	8·6	20·5	39·0	31·9	5,421
Total, boys and girls .	9·5	16·9	38·7	34·9	23,350

TABLE IV—*continued*

Occupations	Percentages of Juveniles 14 and under 18 Years of Age whose Normal Weekly Hours of Labour fell within the Undermentioned Categories, and Total Numbers of Juveniles in each and all Occupations shown				
	Up to and including 48 hours	Over 48 and up to and including 54 hours	Over 54 and up to and including 60 hours	Over 60 hours	Total Numbers in each and all Occupations shown
B. HOURS EXCLUDING MEAL-TIMES AND/OR REST PERIODS					
Errand and messenger boys	20·4	42·8	27·5	9·3	13,697
Errand and messenger girls	21·6	48·5	22·1	7·8	4,865
Van boys	28·3	34·8	19·7	17·2	2,971
Warehouse boys	31·0	45·4	19·8	3·8	348
Warehouse girls	33·8	45·8	20·4	—	382
Cinema attendants (boys)	29·9	31·2	19·1	19·8	157
Cinema attendants (girls)	59·0	12·0	20·0	9·0	100
Petrol-pump boys	20·3	42·3	17·1	20·3	123
Ice-cream sellers (boys)	—	24·0	45·5	30·5	121
Bill-distributors (boys)	60·5	39·5	—	—	76
Bill-distributors (girls)	66·7	33·3	—	—	30
Firewood-choppers (boys)	40·0	44·4	15·6	—	45
Firewood-choppers (girls)	50·0	—	50·0	—	20
Laboratory assistants (boys)	100·0	—	—	—	40
Laboratory assistants (girls)	100·0	—	—	—	10
All other occupations (boys)	78·6	17·7	0·9	2·8	351
All other occupations (girls)	7·1	85·8	—	7·1	14
Total, boys	23·4	40·7	25·3	10·6	17,929
Total, girls	23·7	47·4	21·8	7·1	5,421
Total, boys and girls	23·5	42·2	24·5	9·8	23,350

Note. In the light of the information contained in the reports received, the terms 'messenger boy' and 'errand boy' have been regarded as synonymous.

Judged by the statistics shown, Scottish juveniles have a more extended working week than that of the boys and girls in England and Wales. This will be

seen clearly from the comparisons set out in Table V below.

TABLE V

Net Working Hours Group	Percentage of Juveniles in each Net Working Hours Group	
	England and Wales	Scotland
48 or less	57 1	23·5
Over 48 and up to and including 54	26 9	42·2
Over 54 and up to and including 60	11 7	24·5
Over 60	4 3	9·8
Total . .	100 0	100·0

It is obvious from classification *A* in both Tables III and IV, showing the hours of labour including meal-times and rest periods, that for a very large proportion of the juveniles concerned the 'spread over' of hours must be for such a large part of the day as to deprive these young people of opportunities not only to maintain their health, but to extend their education and to take part in various forms of recreational activity at reasonable and appropriate times. The burden of work thrust upon them would be unreasonably heavy even for adults, but for adolescents it is staggeringly burdensome to the point of cruelty.

There is grave reason for belief that many errand boys and girls employed by shopkeepers do not get adequate meal-times and rest periods. In this connexion it should be pointed out that prior to December 30, 1934, where these boys and girls spent most or all of their time outside the shop they were not

legally protected with regard to meal-times and half-holiday, and it was possible for the net working hours to mount up well towards the inclusive limit of 74 per week prescribed by the then existing law. Moreover, there was no legal limit set to the number of daily hours of work, and there was much evidence to show that on some days—Fridays and Saturdays in most cases—grossly excessive hours of toil were the unhappy lot of thousands of young people. In Great Britain these matters are now subject to the Shops Act, 1934, but the old law, with all its deficiencies, remains in Northern Ireland and the Irish Free State.

The members of the Liverpool Corporation were so impressed with the gravity of the situation in their area that they sought and obtained special powers, in advance of promised national legislation, to deal with it.[1] Under Section 33 of the Liverpool Corporation (General Powers) Act, 1930, the Corporation may make by-laws for regulating the conditions of employment of young persons (other than those whose hours of employment are regulated by the Factory and Workshop Acts, 1901–20) who are employed wholly or partly in the city, and are, for any part of the time during which they are employed, occupied either in or about the delivery, collection, or transport of goods, or in the going of errands in connexion with any business carried on in a wholesale or retail shop or a factory or workshop. By-laws so made may regulate with respect to all or any such

[1] Similar powers have now been conferred upon local authorities generally by means of the Children and Young Persons Acts, 1932 and 1933, when the particular sections of those Acts containing these powers have been made operative (see Chapter III).

persons the number of hours for which, and the hours of the day in which, they may be employed, the intervals to be allowed for meals and rest, the holidays or half-holidays to be allowed, and such other matters as in the opinion of the Corporation require to be regulated for the protection or welfare of such persons. By-laws are required to be confirmed by the Home Secretary, who must consider any objections that may be raised to the proposed issue of by-laws, and who has power to order a local inquiry to be held. The writer has been given to understand that as the Shops Act, 1934, now regulates the occupations which it was intended to cover by the local Act of 1930 it is not now proposed to make by-laws under the last-mentioned Act.

As regards the catering trade, the Select Committee on Shop Assistants relied upon the statistical material contained in the report of an investigation carried out by the Ministry of Labour in 1929.[1] The results of that investigation are summarized in tabular form for certain branches of the trade: (1) the light refreshment and dining-room (non-licensed) section of the trade, excluding multiple firms; (2) the licensed trade—public-houses; and (3) licensed restaurants.

In order to afford an appropriate comparison with the other retail trades the official figures relating to the hours of duty in these three sections of the trade have been rearranged by the writer so as to fall into the two categories of working hours, exclusive of meal-times, adopted by the Select Committee to

[1] *Report on an Enquiry into Remuneration, Hours of Employment, etc., in the Catering Trade in 1929*, 36–100 (1930).

indicate 'long' hours and 'excessive' hours. The results are presented in Table VI, shown on the next page.

The foregoing figures show that 'long' and 'excessive' hours were worked by a substantial majority of the workers in the light refreshment and dining-room (non-licensed) section of the trade and in licensed restaurants, the larger proportion being in the 'long' hours category. On the other hand, in the public-houses approximately one-half of the workers were on duty for 'long' and 'excessive' hours. In this section of the catering trade considerable numbers of workers were within the two extreme ranges of hours—48 hours and under, and 60 hours and over.

Taken as a whole, the position in the catering trade was much the same as that in the retail trades generally, reasonable hours of work contrasting with unduly prolonged turns of duty not only for adult workers, but also for young people.

The Select Committee found that the weekly hours of employment in the wholesale distributive trades were fewer than those in the retail trades. If an average throughout the year were taken, probably it would not exceed 48 hours a week in any of the wholesale trades. It was shown, however, that the weekly hours of work were not constant throughout the year, but were subject to seasonal fluctuations, increasing considerably during stocktaking and at the seasons when retail shops ordered new stock. Having regard to this common characteristic of all the wholesale trades, the Select Committee considered the normal hours of employment in such trades not from

Table VI

Catering Trade, 1929			
Group of Workers	Percentage of Workers whose Hours of Duty, exclusive of Meal-times, were as shown below		
	'Long' Hours. over 48 and under 60	'Excessive' Hours: 60 and over	'Long' and 'Excessive' Hours combined
(1) *Light Refreshment and Dining-room (non-licensed) section, excluding multiple firms:*			
Males, 21 years and over	52·7	19·3	72·0
Females, 21 years and over:			
Waitresses . .	57·0	7·3	64·3
Others . . .	53·9	4·8	58·7
Females, 18–20 years:			
Waitresses . .	52·7	7·0	59·7
Others . . .	71·5	2·0	73·5
Females, under 18 years:			
Waitresses . .	56·1	6·6	62·7
Others . . .	55·7	5·2	60·9
(2) *Licensed Trade—Public-houses:*			
Males, 21 years and over	23·0	23·3	46·3
Males, 18–20 years .	39·5	27·6	67·1
Males, under 18 years.	31·5	15·7	47·2
Females, 21 years and over . . .	24·1	16·2	40·3
Females, 18–20 years .	37·6	17·2	54·8
Females, under 18 years	32·4	12·0	44·4
(3) *Licensed Restaurants:*			
Males, 21 years and over	56·1	12·0	68·1
Males, 18–20 years .	58·7	8·5	67·2
Males, under 18 years	49·5	9·9	59·4
Females, 21 years and over . . .	60·0	6·3	66·3
Females, 18–20 years .	66·8	5·5	72·3
Females, under 18 years	54·1	3·7	57·8

the point of view of each individual trade, but under the headings of normal hours in slack seasons and busy seasons respectively.

Outside rush seasons the normal hours varied from 39 to 52 a week, the latter figure being exceptional. Most of the employees worked between 42 and 47 hours, but in the wholesale fruit and potato trades, dealing with perishable goods, the normal working week was submitted as being one of 50 hours. The normal hours in slack seasons for other wholesale trades were given as follows: drapery, 44 or less; primary grocers, 42 to 47½; secondary or provincial grocers, 47. The average hours in four big cities were: London, 47; Manchester, 44; Liverpool, 44; Leeds, 47.

A marked increase of working hours occurred in busy seasons. Thus, in the wholesale fruit and potato trades the normal hours of 50 (in slack seasons) rose to 56 in the winter and 62 in the summer. In other wholesale trades the busy seasons were as a rule during stocktaking, for a month or six weeks in the spring, and a month prior to Christmas. Examples of these varying weekly hours were given from the reports of the Departmental investigators. One of these showed that in a London drapery warehouse the hours were 54 a week for six weeks and for two other periods of four weeks; 45 for four weeks; and 39 for the remaining thirty-four weeks of the year. In another similar establishment the working hours were up to 59½ a week for ten weeks and 42 hours for the rest of the year. In a large Manchester warehouse up to 57 hours a week were worked for a period of seven weeks, for a month, and for two periods of three weeks.

Conditions of work in the wholesale markets differed from those in warehouses. In the fish and fruit markets, particularly, at certain times of the year working hours mounted up to 60, 70, and even 80 per week.

It would appear from what has been stated above that, in the main, hours of work in the wholesale trades were reasonable for a good part of the year, 'long' for certain periods, and, in the case of the markets, 'excessive' for some weeks at different times.

This survey of the situation regarding hours of work is now completed. There is more shade than light in the picture, and it is no exaggeration to declare that the facts as to overwork, confirmed by the official reports to which attention has been directed, are overwhelming in their gravity. They constitute a serious indictment against the employers directly responsible. They offer a challenge to the conscience of the shopping community, the members of which, by the exercise of their purchasing power, are the indirect employers of those engaged in the service of distribution. They reveal the weakness of and the need for organization among shop assistants. Lastly, they demonstrate the indifference of Parliament to a state of affairs which in substantial degree has existed for a hundred years and which has been represented to the legislature in all sorts of ways as being a menace to the whole nation.

We come now to the consideration of proposed legislation. For many years the organizations representing shopworkers and other commercial em-

ployees have contended that long and excessive hours of work can be dealt with effectively only by setting a statutory limit to the normal working hours and by a strict regulation of permitted overtime. Clauses designed to secure these objects were contained in the Shops (Hours of Employment) Bill,[1] which was given a second reading on March 21, 1930. Though the Bill made no further progress it led to the appointment of the Select Committee on Shop Assistants to consider the facts of the whole situation regarding which legislation was urged.

In making their recommendations the Select Committee proposed that in any legislation arising therefrom the term 'shop assistant' should be defined as "any person wholly or mainly employed in connexion with any shop for the serving of customers or the receipt of orders, or the collection, dispatch, or delivery of goods, or in any clerical capacity," but that the following should be exempted from any such legislation:

(*a*) Employees in hotels and boarding-houses, other than those covered by the provisions of the Shops Acts, 1912 to 1928.
(*b*) Employees of wholesale market traders.
(*c*) Persons employed wholly or mainly in canvassing for orders or collecting payments.

With respect to hours of employment, the Committee, by a majority as regards all shop assistants, and unanimously as affecting those under eighteen years of age, endorsed the principle that the normal hours of employment of all shop assistants, with the

[1] Bill 37.

above-mentioned exceptions, should be limited to 48 per week. The term 'hours of employment' was defined as the time during which the employee was at the disposal of the employer, excluding the statutory intervals for meals.

In the matter of work beyond normal hours the Committee recommended that in trades where there was a reasonable demand for hours in excess of 48 per week a fixed amount of overtime should be allowed throughout the trade.

The Committee recommended that the primary decision as to the trades in which overtime should be allowed, and its amount, should be placed in the hands of local and national advisory boards, the establishment and duties of which are referred to later in this chapter. Failing agreement on the matter before the local advisory board, any separate section of the distributive trades should be entitled to appeal to the national advisory board for the fixing of the appropriate maximum amount of overtime, both per day and over whatever longer period of time might seem desirable. The national advisory board should then make a recommendation to the Secretary of State. Local authorities should, following an agreement before the local advisory board as to the granting of overtime to any trade, make a provisional Order fixing the hours of overtime decided upon, such Order becoming operative when approved by the national advisory board and the Secretary of State.

Payment for overtime at a rate not less than one and a quarter times the rate for normal hours of employment was recommended by a majority of the Committee, to be reckoned, apparently, on a weekly basis.

Leaving aside differences upon several points, employees in the distributive trades welcomed the Select Committee's endorsement of their claim for a statutory limitation of normal working hours to not more than 48 per week. Enactment of this claim by the legislature did not demand the taking of any original step, for the legal regulation of working hours of commercial employees, including in most cases shop assistants, has been in vogue for some years in a number of countries,[1] and the way to the further extension of such regulation was paved with the adoption of the Draft Convention on Hours of Work in Commerce and Offices by the International Labour Conference at Geneva in 1930. It is true that any Bill which may be introduced to ratify this Convention will have to incorporate several important amendments in its text to satisfy the British trade unions of non-manual and commercial employees. Apart from several questions concerned with occupational scope, among the necessary amendments sought are:

1. Provision for a shorter working week than one of 48 hours in the case of clerical, administrative, and technical employees.
2. Restriction of the ordinary and special circumstances in which the hours of work per week and per day may be exceeded.
3. Subjection of family and small undertakings to

[1] A very full account of the then existing international situation, both as regards regulation by legislation and otherwise, was given in the Grey Report of the International Labour Organization (Geneva), issued for the first discussion at the International Labour Conference in 1929, on the hours of work of salaried employees.

the same rules as are applicable to other establishments.

The international treatment of the subject has been carried a stage beyond the 1930 Convention by the discussions which began in Geneva under the auspices of the International Labour Organization in January 1933 on the project of a 40-hour week in industry and in commerce and offices.

As pointed out at the end of Chapter I, the Government delayed giving effect to the recommendations of the Select Committee in the matter of working hours. A private Bill,[1] differing in certain details, but grounded in principle on the Select Committee's recommendations in regard to working hours, was therefore promoted by the distributive workers' trade unions and presented on November 25, 1932. This was rejected on second reading on March 17, 1933. Another Bill,[2] with the same textual contents, was down for second reading on February 9, 1934, but was not reached.

Further pressure, both inside and outside Parliament, was exerted upon the Government, and eventually they produced their own Bill, out of which emerged ultimately the Shops Act, 1934, which took effect on December 30 of that year. The Act has been fully explained in Chapter II.

The failure of the Act to regulate the working hours of shop employees eighteen years of age and upward as recommended by the majority of the Select Committee on Shop Assistants is bitterly resented by all those actively concerned with the reform of shop life. The defects in those provisions of the Act

[1] Bill 11. [2] Bill 24

regulating juvenile employment are also obvious. There is nothing to justify a working week of 52 hours until December 1936, when the 48 hours' week unanimously recommended by the Select Committee comes into operation. No sound reason can be advanced for permitting overtime at all for any young persons under eighteen years of age, nor can any defence be made of the omission to require that overtime employment allowed in the case of those employees between sixteen and eighteen years of age shall be remunerated. The special arrangements of working hours permitted in the case of the catering trade and for the sale of accessories for aircraft, motor vehicles, and cycles, if they are adopted to any considerable extent, will subject many juveniles to excessive hours of work.

Notwithstanding these criticisms, it must be admitted that the execution of the Act will liberate large numbers of other young people from a life of real hardship as the result of gross overwork.

It is to be hoped that the Select Committee's recommendation in favour of a statutory limitation of working hours for *all* shop employees will soon be given effect, and thus result in legal sanction and universal application of an extensive existing practice in a large part of the commercial world, both at home and abroad. It is only by these means that the ground gained through so many years of trade union activity can be secured and the public spirit of fair-minded employers and enlightened members of the shopping community can be made to prevail over those less considerate to the just claims of a large and important body of workers.

II. Closing of Shops

Historically the demand of shop assistants for a maximum working week has been coupled with a claim for the early closing of shops, in order that hours of leisure may be related as nearly as possible to those enjoyed by the majority of workers in other occupations.

Three main proposals for the amendment of existing shops closing provisions are suggested here:

1. The general closing hours specified by the Shops Act, 1928, should be amended to 7 o'clock in the evening on days other than the day of the weekly half-holiday, and to not later than 8 o'clock on the late night; and no later hours than these should be specified or allowed for confectionery or tobacco shops, as is now the case.

2. The Shops Act, 1912, should be amended in such a way as to remove the present restriction by which local authorities are unable to promote Closing Orders for times earlier than 7 o'clock. There seems to be no sound reason why local authorities should not be able to promote Closing Orders for 6 o'clock or 6.30 closing in the same way that they are at present able to promote 7 o'clock or 7.30 closing.

3. Employees in shops should have the right and opportunity of taking part in the making of Closing Orders, and the law should be amended so as to provide that adult shop assistants who have worked in a district not less than, say, three or six months shall be given a vote with respect to the making of local Closing Orders.

The Select Committee on Shop Assistants were

undivided in their support of the principle of the second suggestion outlined above. They pointed out that in evidence some employers specifically asked that if the hours of labour were limited the hours of opening should be made to coincide with them. In this connexion it is recalled that in May 1930 at the annual conference of the Early Closing Association a resolution was passed "that any attempt to restrict by legislation the hours of labour of shop assistants must be in conformity with and concurrent to the compulsory closing hours of the premises." The Select Committee expressed the opinion that if power were given to local authorities to make Closing Orders for an earlier hour than 7 o'clock, in accordance with their recommendation, this would help towards the establishment of the principle of synchronization of hours of work and hours of opening.

That the convenience of the public must be served has been and again may be pleaded as the excuse for late hours of closing shops and excessive labour of shop assistants. Within reasonable limits the plea of convenience must have due consideration. In this connexion emphasis may be laid on the fact that the co-operative stores throughout the country cater for classes of customers in respect of which the question of convenience has always required special consideration. It is a striking manifestation of the change of habits on the part of the shopping public that in these stores—probably the most representative classes of shops, providing as they do for rural, urban, and city customers—the hours between which shops are open have been contracted sufficiently to allow within them for a working week of 48 hours, or less,

as the maximum. It is admitted that only a minority of the shop assistants of the country are engaged in co-operative stores, but the wide geographical distribution of such stores and the varied classes of the nearly seven million purchasing members for which they cater are sufficiently representative as to support fully the contention that what has been achieved by agreement as described shall be extended to all classes of shops by the method of legislation. In some instances, for example, in the catering trades, it may be necessary to distribute the hours of work in such a manner that, without infliction of hardship upon the employees concerned, the reasonable claims of the public will be met.

The Select Committee supported the movement for the enforced Sunday closing of shops. There can be no doubt about the growth of Sunday trading, which to a large extent is quite unnecessary. If it is permitted to continue in the case of any special classes of shops, the law should provide against the employment of shop assistants therein on a Sunday unless extra payment is given and a compensating day's holiday is granted in the same week, in addition to the weekly half-holiday. Thus the $5\frac{1}{2}$-days week would be safeguarded. Employees in catering establishments should be treated not less favourably. In addition, a minimum number of free Sundays in every year should be guaranteed to every assistant.

III. Weekly Half-holiday

Though the advantages of a weekly half-holiday have been recognized by shop assistants, it is re-

garded as unjust that in the case of assistants engaged in holiday resorts the present law, subject to specified conditions, allows the half-holiday to be withdrawn for one-third of the year. The fortnight's holiday with full pay, which the Act seems to regard as some sort of satisfaction for the temporary withdrawal of the half-holiday, is really not a compensating holiday in the proper sense of the word, as an annual holiday with pay is one of the ordinary customs of the distributive trades. There is neither logic nor fairness in making a generally applicable term of service appear to have a special value in holiday resorts for the purpose of depriving the assistants of their weekly half-holiday for four months of the year.[1] This is a defect which should be remedied on the occasion of the first revision of the law.

Another reform desired is that of an earlier hour than 1.30 at which the assistant's half-holiday shall commence. Already in very many shops there is a stop at 12 o'clock noon on the day of the half-holiday, which enables the assistants to reap the full advantage of the weekly respite. An embodiment of this excellent practice in legislation would make enjoyment of it universal.

Under current legislation the weekly half-holiday may be withdrawn in the week preceding a Bank Holiday if the assistant is not employed on the Bank Holiday and is given his half-holiday in the Bank Holiday week. This also is unjustifiable, as is also

[1] In Belgium the law establishes the principle that where a period of annual holiday is prescribed as compensation for extra hours worked in certain exceptional cases during the year such compensatory holiday shall be in *addition* to the usual period of annual holiday.

the alternative provision that the assistant may be given his half-holiday on the Bank Holiday in Bank Holiday week. In addition to the usual half-holiday the assistant ought to have the advantage of the Bank Holiday and, where there are two Bank Holidays in the same week, of both those holidays. The law should be amended accordingly.

IV. Meal Intervals and Facilities

The Select Committee on Shop Assistants commented on the very indifferent arrangements for meals prevailing in many shops in connexion with which there were no mess-rooms. Even where such rooms were provided they were sometimes used for other purposes also. Many were in a dirty or otherwise unsatisfactory state. Contrasting with these places were establishments of large firms in which there were excellent restaurants and canteens where the employees could take hot meals in comfort and bright surroundings.

The Select Committee on the evidence given before them pointed out:

> In a number of shops the assistants take their meals where they can be seen by anyone entering the shop, and they are thus liable to frequent interruption. Even where mess-rooms or canteens are provided an assistant's meal is sometimes interrupted because a customer asks to be served by a particular individual.

The Committee also quoted the following statement of a witness:

> The complaint is often made that assistants are not allowed to leave the premises during the midday meal

> interval, and that it was almost a universal practice that they should not do so during the tea interval. In the smaller type of shop complaint is often made that meals had to be taken in the shop, and were frequently interrupted for the service of customers; that the assistant, although he has a statutory three-quarters of an hour, if he takes his food on the premises does not in fact get three-quarters of an hour's peace to eat his meal: he has to be hopping up and serving somebody. Another complaint in regard to meal-times was that the full statutory thirty minutes' interval for tea was very frequently not given.

With reference to the last point in the above quotation it was recorded that one of the investigators specifically reported "that the statutory break between 4 and 7 is not generally observed." The assistants in many shops, therefore, worked without a break from lunch-time until the shop closed.[1]

From all this it is clear that in order to secure to every assistant an adequate break, free from control by the employer, the present law should be amended so as to provide for a period of *at least* one hour for the purpose of the midday meal, whether the meal is taken *on* or *off* the shop premises, which should be a matter entirely at the option of the assistant. The same principle should apply in the case of the tea interval. Similar breaks should be enforceable in respect of other commercial employees.

By the Shops Act, 1934, in *Great Britain* it is now required that where persons employed about the business of a shop take any meals in the shop there shall be provided and maintained suitable and sufficient facilities for the taking of those meals. If this provision is properly enforced it should to some

[1] Report 148 (1931), paragraphs 281–282, p. 71.

extent serve to remedy the unsatisfactory conditions commented upon by the Select Committee.

V. Minimum Age of Employment

In Chapter III an account was given of the progress made in the legal regulation of child labour. The restrictions upon general employment out of school hours of children between twelve and fourteen years of age were augmented but slightly by the Children and Young Persons Acts, 1932 and 1933. Further restrictions will be imposed if and when the British Government ratify the Draft Convention on the Minimum Age of Employment in Non-industrial Occupations, adopted by the International Labour Conference at Geneva in April 1932.

While welcoming these steps to secure the better regulation of child labour, the fact must be faced that they stop short of the one effective way of dealing out justice to school-children, which is to free them from the necessity of shouldering the double burden of learning and working. This was done some years ago as regards employment in factories, workshops, mines, and quarries, and in industrial undertakings, where the statutory minimum age of employment is fourteen. Apart from such employment and that of street trading and certain occupations prohibited by local by-laws to children under fourteen, the statutory minimum age, generally speaking, is twelve, which *may* be raised by local by-laws. On the grounds of uniform principle and equality of educational opportunity there is very good reason for the demand that the legal minimum

age of employment shall be the same for *all* children, without discrimination.

Abolition of employment of any kind at any time in the case of all school-children, and the raising of the school-leaving age to sixteen as quickly as possible, would lessen considerably the volume of unemployment throughout the country, as well as improve the standard of individual knowledge and of national efficiency. These results would justify in full measure the expenditure on maintenance grants which would be required.

VI. Fines and Deductions

From an employer's point of view it is exceedingly doubtful whether fines have any disciplinary value in a general sense. This is borne out by the fact that in many establishments the fining system has been abolished without producing the dangerous results which were predicted by its defenders. From the standpoint of the workers the system is wholly bad, and no employer, even under the restrictions of the Truck Acts, should be given the power to inflict financial penalties upon his workpeople. There is thus very good reason for the demand that the present law should be amended so as to abolish generally fines and deductions by way of fines and to make suitable provision for the proper enforcement of the amended legislation. It is also desirable that distributive and clerical employees should be as well protected legally as are workmen under the Truck Acts relating to the payment of wages in the current coin of the realm and to the expenditure of wages

when and where the employees alone may determine.

VII. Annual and other Holidays

Provision should be made by legislation for an annual holiday of at least two consecutive weeks, in addition to statutory and customary holidays, all on full pay. Breaks in work, of varying length, for the purpose of holidays constitute one of the long-established usages of the distributive trades and of clerical and administrative services. Upon this usage successful arguments have been based for the extension of the principle of paid holidays to many classes of manual workers. From the beginning of 1919 the principle has found widespread expression in the case of many trades. In July 1934 it was estimated that about a million and a half manual wage-earners were covered by general and district collective agreements between employers and work-people, and many others by less formal arrangements, providing that certain holidays with pay shall be granted annually.[1]

An annual holiday Bill [2] was introduced and given a first reading in the House of Commons in April 1925. This was followed in November 1929 by another Bill,[3] the main object of which was to enable all employed persons engaged in the same employment for a period of twelve months to have an annual holiday of not less than eight clear consecutive days on full pay, unless during the holiday the employed person took paid work. This holiday

[1] *Ministry of Labour Gazette*, July 1934, pp. 232–233.
[2] Bill 151. [3] Bill 25.

was to be in addition to any holiday on a weekday to which the employed person was already entitled by law or custom. After five hours' debate the Bill was accorded a second reading without a division. Owing to the heavy programme of other Parliamentary business the Bill made no further headway, but it is clear that the House of Commons by its emphatic endorsement of the principle of paid holidays has paved the way to ultimate legislation for giving effect to that principle in respect of all employed persons.

So far as clerks, shop assistants, warehousemen, and other commercial employees are concerned, experience has shown that the custom of paid holidays is particularly free from serious objection in its practical working, and therefore may well be given legal sanction and universal application. Other countries have set useful precedents in the legal enactment of annual holidays for these classes of employees. It appeared, according to a very informative study by the International Labour Office,[1] that this legislation had come into being in the course of twenty-one years. It varied not only in its scope—in different countries the law might apply to employees in certain categories of shops, in all shops, in commercial establishments, in industrial and commercial establishments, or to employees in general—but also in the length of service qualifying for a holiday and the length of the holiday.

In addition to the countries in which annual holidays with pay were regulated by legislation, there were other countries in which the principle of paid

[1] *Holidays with Pay for Private Employees,* reprinted from the *International Labour Review*, vol. xxiv, No. 6, December 1931.

holidays was applied, in varying degrees of occupational scope, by virtue of custom, individual personal contract, collective agreements, or arbitration awards.

A more extensive account of the law and practice regarding paid holidays for both non-manual and manual workers in the various countries has since been published by the International Labour Office. This is contained in the Grey Report prepared for the first discussion of the subject at the International Labour Conference, Geneva, in 1935.

Trade unions in various countries have manifested increased interest in this subject during the last few years, and their national and international centres have voiced the unequivocal demand that all employed persons—manual and non-manual workers—shall have secured to them without question and in generous measure a benefit already conceded to a considerable proportion of the world's working population and enjoyed by employers themselves. Against such a demand no sound argument can be advanced by employers or Governments. An annual holiday and other occasional breaks from time to time during the year form a fundamental and natural right of every individual in the community, whatever be the nature of his or her employment, for no person can be and continue in mental and physical health without periodical cessation of the struggle to live. And no holiday can be a real holiday unless it be a paid holiday, chargeable against the earnings of the employing establishment in exactly the same way that any other costs—labour and non-labour—are charged. The right to a paid holiday should rest neither upon chance nor upon the caprice of em-

ployers, but should be provided and safeguarded by national law, which, as far as may be practicable, should be expressed in terms of uniformity settled by international conference and agreement.

VIII. Seats for Female Assistants

Under Section 3 of the Shops Act, 1912, it was required that in all shops where females were employed seats should be provided, but the section contained nothing to say that the seats might be *used*.

Even this weak law was frequently evaded. The Select Committee on Shop Assistants found from the investigators' reports that in many shops no seats were provided; in others the seats were placed either on the customers' side of the counter or in a back room. In many instances where the seats were on the assistants' side of the counter the working arrangements were of such a nature as to render use of the seats impossible. Often female assistants were afraid to use what the legislature intended to be for their benefit, as to do so was considered by the management to be a sign of slackness and was regarded with disfavour. Thus we had a condition of affairs complained of over and over again in respect of women—namely, the highly disastrous physical results attendant on long standing, and in work of a nerve-straining character.

In this matter the Select Committee on Shop Assistants recommended "that notices should be posted in every shop, setting forth the law with regard to the provision of seats for the assistants, and also

stating that the assistants are intended to use them whenever possible. Where rest rooms are provided an assistant who is tired or unwell should be allowed to use them, as is already the case in a number of shops." [1]

The first (but not the second) part of the Committee's recommendation was given legislative effect in the Shops Act, 1934, as already explained in Chapter II. Unfortunately this amended law does not extend to Northern Ireland or the Irish Free State, where the original Section 3 of the Shops Act, 1912, still operates.

IX. Health Conditions

The sanitary and welfare conditions in offices, shops, and commercial establishments generally have never been of a high standard. Before the War this could be readily demonstrated, but revelations made during the War period showed that an almost unbelievable state of affairs existed, which to a very large extent still continues. There are business premises in connexion with which sanitary conveniences, ventilation, cleanliness, and welfare facilities in general are quite up to date and satisfactory. On the other hand, there are hosts of offices, shops, restaurants, and warehouses in connexion with which the sanitary arrangements are of the most primitive kind.

Much of the ill-health of clerical and commercial employees as a class is due to bad working conditions and inadequate health provisions. In the

[1] Report 148 (1931), vol. i, p. 65.

critical days of the War period, when mixed employment of the sexes took place for the first time in many establishments, difficulties were bound to arise in meeting fully the statutory requirements of the Public Health Acts with reference to the provision of separate, suitable, and sufficient sanitary conveniences. These difficulties were recognized and allowed for by local authorities in a partial relaxation of the law, particularly as regards structural alterations, which constitute a general problem in the case of old buildings. Makeshift arrangements of the War period, it would appear, are still being operated, to the detriment of the health of the workers directly concerned as well as to the public health. On this subject the Select Committee on Shop Assistants pointed out that in a number of shops there were no sanitary conveniences at all. Lock-up shops and kiosks accounted for a considerable proportion of these, and the assistants in those shops were put to real inconvenience in having to resort to other accommodation not readily accessible. In a very large number of shops there was no separate accommodation for the sexes. It was also reported to the Select Committee that the accommodation was not always in a satisfactory condition. Walls and ceilings were dirty and there was insufficient ventilation in some cases. Some of the lavatories were stated to be "in a beastly state." [1]

The Select Committee also reviewed the evidence regarding the unsatisfactory position in many shops with respect to lighting, heating, and ventilation. Basements and sub-basements among other places

[1] Report 148 (1931), vol. i, paragraphs 269–271, p. 68.

were specially mentioned regarding defective lighting and ventilation. It was also indicated that the standard of washing facilities on the whole was unsatisfactory.

> In a considerable number of food shops, where the provision of proper washing arrangements is particularly desirable, no such provision is made, and in many of these shops there is not even a water-supply. Water is fetched from outside for cleaning purposes, but the labour entailed does not encourage its use for personal washing. Lock-up shops, kiosks, and stalls are notably deficient. In provincial shops the facilities often consist of a kitchen sink, or a bucket under a tap in the yard. There is no hot-water supply in the majority of shops. Seventy per cent. of the shops in the city of London are without it, for example. Even where there are washing facilities the provision of towels for assistants is usually unsatisfactory, except in the larger stores. In some shops no towels are provided at all; in others the assistants provide their own; in others an insufficient number of towels is provided. It is not usual to find that the ideal of a separate towel for each assistant has been attained.[1]

Conditions in offices have frequently formed the subject of complaints and reports very similar to those made about shops. Underground rooms, in many cases unventilated, badly lighted, and with dirty windows; overcrowding; lack of proper ventilation; inadequate heating; insufficient, unsuitable, and dirty sanitary accommodation; absence of or poor washing facilities. These and other grievances exist in a surprisingly large proportion of the rooms in which clerical, administrative, technical, and professional employees carry on their daily duties.

[1] Report 148 (1931), vol. 1, paragraphs 273–274, p. 69.

The backwardness of shop and office life in this matter of health safeguards is all the more regrettable because of the fact that even under the general Public Health Acts there are powers afforded to cope with serious offences. Greater dignity and self-respect on the part of employees and insistence on the application of the law would make an end of the worst types of cases. Here is an opportunity for useful service by the trade unions. The pressure that efficient organizations can bring to bear on local authorities is productive of highly beneficial results, of instances of which the writer has direct and personal knowledge. Defects in the application of the law should be reported to the inspectors. Remedial measures can then be adopted, with profit alike to the workers concerned and to the community at large, and also to the pecuniary advantage of the unions and the State, in that sickness and disablement benefit funds are relieved of burdens created by unhealthy working conditions. Every trade unionist has a duty in this matter, the discharge of which he or she should undertake both as a worker and as a citizen.

As shown in Chapters II and V, prior to the Shops Act, 1934, there was no code of health regulations specially applicable to and enforceable in shops and warehouses. Employees in those establishments had, and clerks outside the scope of the 1934 Act still have, to rely entirely on the general Public Health Acts. Some of the requirements of these Acts are now out of date, and their administration is not of a uniform character. In some localities, as in Manchester, the sanitary inspectors are also the inspectors under the Shops Acts, and this combination of duties has

considerable advantages, both on the grounds of convenience and derivation of added powers of entry and for other purposes. But in other cases different inspectors are appointed by the local authority for the two respective services, and the working arrangements between them are not always satisfactory. In the instance of London (except the City of London) the local authority for the purpose of the Shops Acts is the London County Council, but the administration of the Public Health Act is in the hands of the individual Metropolitan Borough Councils. Then, again, as stated previously, if any local authority neglects its duties there is no power given to a central authority to step in and secure the observance of the legal provisions in offices, shops, and warehouses. This is a lamentable weakness in the existing position, sometimes due, it would appear, to the fact that the local inspectors are subject to the handicap of having as a matter of duty to disclose on occasion non-compliance with the law by members of their employing councils who carry on business in offices, shops, and similar places.

The Select Committee on Shop Assistants recommended that provisions similar to those contained in Part I of the Factory and Workshop Act, 1901 (so far as they deal with conditions relating to health and welfare), but of a more general and less detailed character, should be extended to all shops and warehouses, and that the right of entry for the purposes of inspection and regulation should be dealt with on lines similar to the provisions as to powers of inspectors under the same Act. The Select Committee expressed the opinion that it is enough to require that

the heating, lighting, ventilation, sanitation, washing accommodation, and other amenities in a shop should be "suitable and sufficient," having regard to the nature of each individual shop. The Committee also recommended that the actual inspection should be carried out by the inspectors at present responsible for enforcing the provisions of the Shops Acts, appointed by the local authorities, and that any necessary additions should be made to their numbers. A further recommendation of the Committee was that an investigation should be undertaken by the Ministry of Health into the extent to which it is possible to instal heating apparatus in shops where perishable goods are sold. Sufficient evidence on this matter had not been heard to enable the Committee to come to any conclusions, and they expressed the opinion strongly that this important problem required investigation by scientific and technical experts.[1]

The sanitary and other arrangements contained in the Shops Act, 1934, are based substantially on the Select Committee's proposals and apply without prejudice to the continuing operation of those sections of the Public Health Acts dealing with the same matters or regulating conditions not provided for in the Shops Act, 1934. The Act does not extend to Northern Ireland or the Irish Free State, where commercial employees must continue to depend upon the Public Health laws for protection until amending legislation can be obtained.

As to clerical, administrative, and other office employees, their case would be met by the passing

[1] Report 148 (1931), vol. 1, paragraphs 285–290, pp. 72–73.

into law of a special Offices Bill, either in the form of the Bill mentioned in Chapter V or in an amended text following in principle, though not necessarily in detail, the health sections of the Shops Act, 1934. These latter sections already cover many clerks in the distributive trades, and this fact of itself constitutes a strong argument in favour of not less favourable treatment for all other office employees.

X. Inspection and Enforcement

The enforcement of labour legislation in both this and other countries has been for a long time the matter of much discussion.[1] In recent years the amplification and elaboration of the codes of industrial law and their extension to millions of workers formerly outside the pale of legal protection have made the twin questions of inspection and enforcement subjects of first-rate importance.

No one acquainted with the position will contend seriously that the present staff at the disposal of the Home Office for the purpose of the enforcement of the Factory and Workshop Acts and kindred measures is adequate to deal with complaints of infractions of the law, and also to maintain a high percentage of necessary routine inspection. According to the official statistics, at the end of the year 1933 the authorized staff of inspectors numbered 245. The number of registered factories and workshops was 247,036, and the number of premises of all kinds

[1] In this connexion reference should be made to publications of the International Labour Office (Geneva) on the subject of factory inspection, and also to the *Report of the Departmental Committee on Factory Inspectorate* (Home Office), 34–205 (1930).

subject to inspection amounted to 285,284, or an average of 1164 per inspector. With the best will in the world on the part of the inspectorate it cannot be expected that complete inspection and enforcement can be accomplished by a staff which, as the statistics show, is so numerically weak in relation to the task imposed upon it.

Even more unfavourable is the present position with regard to the Trade Boards inspectorate of the Ministry of Labour. The annual report of the Ministry for 1933 [1] showed that at the end of the year the total number of officers engaged on inspection (including a Chief Inspector, a Deputy Chief Inspector, and an Officer in charge of Special Inquiries) was 62. On the same date the number of establishments on the Trade Boards lists was 91,946, or an average of 1483 per inspector.

Actually during the year 1933 there were 17,060 inspections made in 16,849 establishments. The establishments inspected formed 18·3 per cent. of the total number on the lists, and averaged 271 per inspector. It is but fair to state that, in addition to the inspections proper, 12,856 visits were paid to employers, employers' associations, workers, trade union officials, etc., for other purposes in connexion with the enforcement of the Trade Boards Acts.

The number of workers whose wages were examined in the establishments inspected was 186,752, or an average of 3012 per inspector.

More than *four-fifths* of the total number of listed establishments were *not inspected* during the year 1933. It may be that some of the additional work

[1] Cmd. 4543.

represented by visits paid to workers and to the organizations of employers and workpeople can be justifiably regarded as supplementary to and serving the case as effectively as inspection proper. If every allowance is made for this, however, the strength of the inspectorate, however skilfully it may be utilized, is still well below the necessary standard.

There appear to be no available statistics regarding the strength or classification of the inspectorate staffs of local authorities concerned with the enforcement of the Shops Acts, the Public Health Acts, child labour and street trading laws, and other legislation. Every-day experience demonstrates, however, that in many localities inspection is inadequate and enforcement not carried out effectively.

It is plain from the figures already quoted that the inspectorate staffs of the Home Office and the Trade Boards section of the Ministry of Labour require to be considerably strengthened to cope effectively with the duties cast upon them under current legislation. Additional legislation will undoubtedly accentuate the problem. It is also advisable that provision should be made for the enforcement of the employment provisions of the Shops Acts, the Truck Acts and the Public Health Acts, as well as new legislation affecting distributive and clerical employees, by inspectors of a central authority. If the enforcement of present Acts and of new legislation remains or is placed in the hands of local authorities, at least there should be statutory power reserved to and vested in a central authority to secure enforcement in case of default by the local authorities. With respect to this point the Select Committee on Shop Assistants

stated that they were impressed with the fact that there is no statutory power lying in any Government Department to supervise the administration by local authorities of the Shops Acts, and they were strongly of the opinion that the Secretary of State for Home Affairs and the Secretary of State for Scotland should be specifically entrusted, by statute, with the general supervision of all the provisions of shops legislation and should also have power to make any regulations necessary for this purpose, and to require the regular submission of reports and any other necessary information.[1]

On the ground that it will involve additional expense to the country, the enlargement of inspecting staffs under the control of State Departments and of local authorities will be resisted by those politicians and employers who are opposed in principle to interference by the State or the local authorities in matters relating to conditions of labour. There is a perfectly reasonable answer to such criticism. Huge sums of money are levied in rates and taxes for the upkeep of the police and other forces to maintain the authority of law. Property is regarded almost as sacred and carefully protected. It is much more necessary that Labour should be protected and that the staffs necessary for the purpose shall be adequate in strength and quality to enforce the law. As a matter of equity, also, it is essential that those employers who desire to humanize the working conditions in their establishments by conforming with the legal standards and even exceeding them shall not be affected prejudicially by competitors who endeavour

[1] Report 148 (1931), vol. i, paragraph 240, pp. 59–60.

to evade even the minimum legislative requirements.

Considerable assistance in policing the law may be rendered by the trade unions. Cases of evasion not discovered by the inspectorate are not likely to be reported where there is no trade union organization, as the workers concerned will be afraid of victimization following upon the making of individual complaints. But where trade unionism is strong and its administration effective it may prove a very powerful ally of the official inspectorate. There is, in fact, a growing desire on the part of the trade unions for a definite place in the machinery of enforcement. It has been suggested that without in any way weakening the primary responsibility of the State for enforcement the unions should be given some status in proceedings in the courts and that trade-union officials authorized by their members should be allowed to institute and conduct proceedings on behalf of such members. Along these extended lines much useful work could be done, which would mark a logical development of the activities of the unions in providing legal aid for their members in compensation and many other kinds of cases.

With respect to the distributive trades in particular, means of co-operation between representatives of employers and employed and the local and national authorities were proposed by the Select Committee on Shop Assistants.[1] It was recommended that

1. Each local authority responsible for the administration of the Shops Acts should take steps to appoint a local

[1] Report 148, vol. i, paragraphs 291–292, pp. 73–74.

advisory board consisting of equal numbers of representatives of employers and employed under a chairman appointed by the local authority. Where local employers' associations and trade unions representing distributive workers are in existence the local authority should consult them when setting up the board, which should, as far as practicable, be representative of the main branches of the distributive trades.

2. The duties of local advisory boards should be to make recommendations to local authorities on all matters connected with the administration of present and future Acts of Parliament affecting shops and shop assistants, or upon any matters of a local character affecting the distributive trades: provided that no determination of wages rates shall be within the province of local boards and that no action of a local board shall prejudicially affect any agreement between trade unions and employers. Where after discussion and negotiation between representatives of employers and employed on the local advisory board it is agreed that overtime in excess of the normal working week may be permitted for certain trades, the local authority may proceed provisionally to fix such hours by local Order, but no Order may become operative until it has been approved by the national advisory board, who shall not unreasonably withhold their consent, and by the Home Secretary, or the Secretary of State for Scotland.

3. The Home Secretary and the Secretary of State for Scotland should take steps to set up a national advisory board in each country, consisting of equal numbers of employers and employed. Local advisory boards should have power to suggest members for appointment by the Secretary of State, and the Secretary of State should have power to appoint in addition a chairman and a limited number of other persons who have special knowledge of the distributive trades.

4. The duties of the national advisory boards should be:

(*a*) To advise and make recommendations to the Home Secretary or to the Secretary of State for Scotland

on any matters connected with the administration of the Shops Acts, or affecting shops or shop assistants, and any matters referred to them by local advisory boards: provided that no determination of wages rates shall be within the province of the national advisory boards.

(*b*) To endeavour to promote uniformity of conditions, so far as may be practicable, in areas of similar type.

(*c*) To advise the Home Secretary or the Secretary of State for Scotland on provisional Orders of local authorities in all cases where there is disagreement between the local representatives of employers and employed.

The foregoing proposals, though not revolutionary in character, represent a growing belief in the value of organization among employers and employed. If they are adopted and put into operation it will be possible for the collective views of the distributive trades as a whole, for the first time in this country, to be voiced in all important matters concerned with legislation affecting those trades. This may well lead to closer co-operation and the establishment of machinery for collective bargaining and other trade purposes on the lines of Joint Industrial Councils. In preparation for this it is important that the employees' trade unions should be greatly strengthened, for history teaches us the important lesson that no matter how strong in numbers any classes of workers may be, their conditions of labour are not likely to be of a progressive character without the binding force of mutual aid made possible by trade unionism. In the words of Mazzini: "Power is increased a hundredfold when it is concentrated and a definite direction is given to its action."

In the case of shop assistants, warehousemen, and clerks trade unionism has exerted an influence out of all proportion to the numerical strength of its adherents, and it would be most unwise to arrest its growth among the workers at present outside the ranks by encouraging them to rely entirely on the legislative method of obtaining reform. The power of trade unionism exercised directly in the everyday life of the shop, the warehouse, and the office needs to be stressed not merely on account of its immediate results regarding terms of work, but because recognition of claims for legislative protection rests largely on some degree of achievement, and organization is necessary for the purpose of enforcement of the legal code. As things are, legislative reform would benefit more non-unionists than unionists. Even so, considerations of public policy and welfare demand reform. Apart from this, however, there is the very good reason that the ground of progress hardly won by the trade unions should be consolidated by the means of legal enactment. In this way unfair employers and, at times, even unthinking and inconsiderate sections of the public are made to conform to the practice of good employers and of enlightened and fair-minded members of the community, and the road is cleared for the trade unions to make still further advance by industrial negotiation and action.

APPENDIX

LIST OF LOCAL AUTHORITIES IN WHOSE AREAS SECTION 22 OF THE PUBLIC HEALTH ACTS AMENDMENT ACT, 1890, RELATING TO THE PROVISION OF SANITARY CONVENIENCES, IS IN FORCE [1]

1. England and Wales

County Boroughs

Barnsley
Barrow-in-Furness
Bath
Birkenhead
Birmingham
Blackburn
Blackpool
Bolton
Bootle
Bournemouth
Bradford
Brighton
Bristol
Burnley
Burton-on-Trent
Bury
Canterbury
Cardiff
Carlisle
Chester
Coventry
Croydon
Darlington
Derby
Dewsbury
Dudley
Eastbourne
East Ham
Exeter
Gateshead
Gloucester
Great Yarmouth
Grimsby
Halifax
Hastings
Huddersfield
Ipswich
Kingston-on-Hull
Leeds
Leicester
Lincoln
Liverpool
Manchester
Merthyr Tydfil
Middlesbrough
Newcastle-on-Tyne
Newport (Mon.)
Northampton
Norwich
Nottingham
Oldham
Oxford
Plymouth
Portsmouth
Preston
Reading
Rochdale
Rotherham
St Helens
Salford
Sheffield
Smethwick
Southampton
Southend-on-Sea
Southport
South Shields
Stockport
Stoke-on-Trent
Sunderland
Swansea
Tynemouth
Wakefield
Wallasey
Walsall
Warrington
West Bromwich
West Ham
West Hartlepool
Wigan
Wolverhampton
Worcester
York

[1] See Chapter V.

Boroughs

Abergavenny
Abingdon
Accrington
Acton
Aldeburgh
Aldershot
Andover
Appleby
Arundel
Ashton-under-Lyne
Aylesbury
Bacup
Banbury
Bangor
Barking Town
Barnes
Barnstaple
Basingstoke
Batley
Beccles
Bedford
Berwick-on-Tweed
Beverley
Bewdley
Bexhill
Bideford
Bilston
Bishop's Castle
Blandford Forum
Blyth
Boston
Brackley
Brecon
Brentford and Chiswick
Bridgwater
Bridlington
Bridport
Brighouse
Bromley
Buckingham
Bury-St-Edmunds
Buxton
Caernarvon
Calne
Cambridge
Carmarthen
Chard
Chatham
Chelmsford
Cheltenham
Chepping Wycombe
Chesterfield
Chichester
Chippenham
Chipping Norton
Chorley
Christchurch
Clitheroe
Colchester
Colne
Colwyn Bay
Congleton
Conway
Crewe
Dartford
Dartmouth
Darwen
Daventry
Deal
Denbigh
Devizes
Doncaster
Dorchester
Dover
Droitwich
Dukinfield
Dunstable
Durham
Ealing
East Retford
Eccles
Evesham
Falmouth
Faversham
Finchley
Fleetwood
Flint
Folkestone
Fowey
Gillingham
Glastonbury
Glossop
Godalming
Goole
Gosport
Grantham
Gravesend
Guildford
Harrogate
Hartlepool
Harwich
Haslingden
Haverfordwest
Hedon
Hemel Hempstead
Hendon
Henley-on-Thames
Hereford
Hertford
Heston and Isleworth
Heywood
Higham Ferrers
Honiton
Hornsey
Hove
Huntingdon
Hyde
Hythe
Ilford
Ilkeston
Jarrow

Boroughs—continued

Keighley
Kendal
Kidderminster
Kidwelly
King's Lynn
Kingston-on-Thames
Lampeter
Lancaster
Launceston
Leamington
Leigh
Leominster
Lewes
Leyton
Lichfield
Liskeard
Llanelly
Llanfyllin
Lostwithiel
Loughborough
Louth
Lowestoft
Ludlow
Luton
Lyme Regis
Lymington
Lytham St Annes
Macclesfield
Maidenhead
Maidstone
Maldon
Mansfield
Margate
Marlborough
Middleton
Mitcham
Morecambe and Heysham
Morley
Mossley
Neath
Nelson
Newark-on-Trent
Newbury
Newcastle-under-Lyme
Newport (I.O.W.)
New Romney
New Windsor
Nuneaton
Okehampton
Ossett
Oswestry
Pembroke
Penryn
Penzance
Peterborough
Pontefract
Poole
Port Talbot
Pudsey
Pwllheli
Queenborough
Ramsgate
Rawtenstall
Redcar
Reigate
Richmond (Surrey)
Richmond (Yorks)
Ripon
Rochester
Rugby
Ruthin
Ryde
Rye
Saffron Walden
St Albans
St Ives (Cornwall)
St Ives (Hunts)
Salisbury
Saltash
Sandwich
Scarborough
Shaftesbury
Shrewsbury
Southgate
South Molton
Southwold
Stafford
Stalybridge
Stamford
Stockton-on-Tees
Stratford-on-Avon
Stretford
Sudbury
Sutton and Cheam
Sutton Coldfield
Swindon
Swinton and Pendlebury
Tamworth
Taunton
Tenby
Tenterden
Tewkesbury
Thornaby-on-Tees
Tiverton
Todmorden
Torquay
Torrington, Great
Totnes
Tottenham
Truro
Tunbridge Wells
Twickenham
Wallingford
Wallsend
Walthamstow
Wareham
Warwick
Watford
Wednesbury

Boroughs—continued

Wells
Welshpool
Wenlock
Weymouth and Melcombe Regis
Whitehaven
Widnes
Willesden
Wimbledon
Winchester
Wisbech
Wokingham
Wood Green
Workington
Worksop
Worthing
Wrexham
Yeovil

Urban Districts

Aberayron
Abercarn
Aberdare
Abergele and Pensarn
Abersychan
Abertillery
Abram
Adlington
Adwick-le-Street
Alderley Edge
Alford
Alfreton
Alnwick
Alsager
Altofts
Alton
Altrincham
Amble
Amblecote
Ambleside
Ampthill
Annfield Plain
Arnold
Ashborne
Ashburton
Ashby-de-la-Zouch
Ashford
Ashington
Ashton-in-Makerfield
Aspull
Atherton
Audenshaw
Awre
Baildon
Bakewell
Bala
Baldock
Bampton
Banstead
Barmouth
Barnard Castle
Barnet
Barnoldswick
Barrowford
Barry
Barton-on-Humber
Beaconsfield
Bebington
Beckenham
Beddington and Wallington
Bedlingtonshire
Bedwas and Machen
Bedwellty
Beeston
Belper
Benfieldside
Benfleet
Bentley-with-Arksey
Bethesda
Bettws-y-Coed
Bexley
Bicester
Biddulph
Biggleswade
Billinge
Billingham
Bingley
Birkenshaw
Birstall
Bishop Auckland
Bishop's Stortford
Blaenavon
Blaydon
Bletchley
Bognor Regis
Bollington
Bolsover
Bolton-on-Dearne
Bourne
Bowden
Bradford-on-Avon
Braintree and Bocking
Brampton and Walton
Brandon and Byshottles
Bredbury and Romiley
Brentwood
Bridgend
Brierfield

Urban Districts—continued

Brierley Hill
Brigg
Brightlingsea
Brixham
Broadstairs and St Peters
Bromsgrove
Bromyard
Brynmawr
Buckfastleigh
Buckley
Bude-Stratton
Budleigh Salterton
Buglawton
Builth Wells
Bungay
Burgess Hill
Burley-in-Wharfedale
Burnham
Burnham-on-Crouch
Burry Port
Bushey
Caerleon
Caerphilly
Callington
Calverley
Camborne-Redruth
Cannock
Canvey Island
Carlton
Carnforth
Carshalton
Castleford
Caterham and Warlingham
Chadderton
Charlton Kings
Chatteris
Cheadle and Gatley
Chepstow
Chertsey
Chesham
Cheshunt
Chester-le-Street
Chigwell
Chingford
Chislehurst and Sidcup
Chorley Wood
Church
Church Stretton
Cirencester
Clacton
Claycross
Clayton-le-Moors
Clayton, West
Cleethorpe-with-Thrumscoe
Clevedon
Coalville
Cockermouth
Coleford
Conisborough
Connah's Quay
Consett
Coseley
Cottingham
Coulsdon and Purley
Cowes
Cramlington
Crediton
Crewkerne
Criccieth
Cromer
Crompton
Cuckfield
Cudworth
Cwmamman
Dagenham
Dalton-in-Furness
Darfield
Darlaston
Dawley
Dawlish
Denby and Cumberworth
Denholme
Denton
Desborough
Diss
Dodworth
Dolgelley
Dorking
Downham Market
Dronfield
Droylsden
Earby
Earsdon
East Barnet Valley
East Dereham
East Grinstead
Eastleigh
East and West Ardsley
Eastwood
Ebbw Vale
Edmonton
Egham
Elland
Ellesmere Port
Enfield
Epping
Epsom
Erith
Esher
Eston
Eton
Exmouth
Failsworth
Fareham
Farnborough

Urban Districts—continued

Farnham
Farnworth
Farsley
Featherstone
Felixstowe and Walton
Felling
Feltham
Festiniog
Filey
Finedon
Fishguard and Goodwick
Fleet
Formby
Friern Barnet
Frimley
Frinton and Walton
Frome
Fulwood
Gainsborough
Garforth
Gelligaer
Gildersome
Glemsford
Glyncorwg
Golcar
Gosforth
Grange
Grasmere
Grays Thurrock
Greasbrough
Great Berkhamsted
Great Crosby
Great Driffield
Great Harwood
Greetland
Guisborough
Guiseley
Hadleigh
Hale
Halesowen
Halesworth
Halstead
Hampton
Hampton Wick
Harpenden
Harrow
Haslemere
Havant and Waterloo
Haverhill
Haworth
Hay
Haydock
Hayes and Harlington
Haywards Heath
Hazel Grove and Bramhall
Heanor
Hebburn
Hebden Bridge
Heckmondwike
Hemsworth
Herne Bay
Hessle
Hetton
Hexham
Hinckley
Hinderwell
Hindley
Hipperholme
Hitchin
Hoddesden
Hollingworth
Holmfirth
Holsworthy
Holyhead
Holywell
Honley
Hoole
Horbury
Horncastle
Hornsea
Horsforth
Horsham
Horwich
Houghton-le-Spring
Hoylake
Hoyland Nether
Hucknall
Hunsworth
Huthwaite
Huyton-with-Roby
Ilfracombe
Ilkley
Ilminster
Ince-in-Makerfield
Irlam and Cadishead
Irthlingborough
Ivybridge
Kearsley
Kempston
Kenilworth
Keswick
Kettering
Kidsgrove
Kingsbridge
Kingswood
Kington
Kirkburton
Kirkby-in-Ashfield
Kirkby Lonsdale
Kirkham
Kirkheaton
Knaresborough
Knighton
Knottingley
Knutsford
Leadgate
Leatherhead
Ledbury

Urban Districts—continued

Leek
Lees
Leighton Buzzard
Leiston-cum-Sizewell
Lepton
Letchworth
Leyland
Linslade
Linthwaite
Litherland
Littleborough
Little Crosby
Littlehampton
Little Lever
Llandilo
Llandrindod Wells
Llandudno
Llanfairfechan
Llanfrechfa, Upper
Llangefni
Llangollen
Llanrwst
Llantarnam
Llanwrtyd Wells
Llwchwr
Loftus
Longbenton
Long Eaton
Longridge
Looe
Luddenden Foot
Lymm
Lynton
Mablethorpe and Sutton
Machynlleth
Madron
Maesteg
Maldens and Coombe
Malton
Malvern
Mangotsfield
Mansfield Woodhouse
March
Market Drayton
Market Harboro'
Marlow
Marple
Marsden
Maryport
Matlock
Melksham
Meltham
Melton Mowbray
Merton and Morden
Mexborough
Middlewich
Midgley
Milford Haven
Milnrow
Minehead
Mirfield
Mold
Mottram-in-Longdendale
Mountain Ash
Mytholmroyd
Nailsworth
Nantwich
Nantyglo and Blaina
Narberth
Neston
Newbiggin-by-the-Sea
Newburn
Newcastle Emlyn
Newhaven
New Hunstanton
Newmarket
New Mill
New Mills
Newnham
Newport (Salop)
Newport Pagnell
New Quay (Cardigan)
Newquay (Cornwall)
Newton Abbott
Newton-in-Makerfield
Newtown and Llanllwchaiarn
Neyland
Normanton
Northallerton
Northam
Northfleet
North Walsham
Northwich
Norton
Norton-Radstock
Oadby
Oakengates
Oakham
Oakworth
Ogmore and Garw
Oldbury
Old Fletton
Ormskirk
Oswaldtwistle
Otley
Ottery St Mary
Oundle
Oxenhope
Padiham
Paignton
Panteg
Penarth

Urban Districts—continued

Penge
Penistone
Penmaenmawr
Penrith
Petersfield
Pickering
Pocklington
Pontypool
Pontypridd
Porthcawl
Portishead
Portland
Portmadoc
Portslade-by-Sea
Poulton-le-Fylde
Preesall-with-Hackinsall
Prescot
Prestatyn
Presteign
Prestwich
Prudhoe
Purfleet
Queensbury
Quorndon
Radcliffe
Rainford
Ramsbottom
Ramsey (Hunts)
Raunds
Rawdon
Rawmarsh
Rayleigh
Redditch
Rhondda
Rhyl
Rhymney
Rickmansworth
Ripley
Risca
Rishton
Romford
Ross-on-Wye
Rothbury
Rothwell (Northants)
Rothwell (Yorks)
Rowley Regis
Roxby-cum-Risby
Royston (Herts)
Royston (Yorks)
Royton
Rugeley
Ruislip Northwood
Runcorn
Rushden
Ryton
Saddleworth
St Austell
St Helens (I.O.M.)
St Just
St Neots
Salcombe
Sale
Sandbach
Sandown-Shanklin
Saxmundham
Scalby
Scunthorpe and Frodingham
Seaford
Seaham Harbour
Seaton Delaval
Sedgley
Selby
Sevenoaks
Shap
Sheerness
Shelf
Shepley
Shepshed
Shepton Mallet
Sherborne
Sheringham
Shildon and East Thickley
Shipley
Shoreham-by-Sea
Sidmouth
Silsden
Sittingbourne and Milton
Skegness
Skelmanthorpe
Skelmersdale
Skelton and Brotton
Skipton
Slaithwaite
Sleaford
Slough
Southall-Norwood
Southborough
Southowram
Southwick
Sowerby
Soyland
Spenborough
Spennymoor
Springhead
Staines
Stainland-with-Old Lindley
Standish-with-Langtree
Stanhope
Stanley (Durham)
Stanley (Yorks, W.R.)
Stevenage
Stocksbridge
Stone
Stourbridge

Urban Districts—continued

Stourport
Stowmarket
Street
Stroud
Sunbury-on-Thames
Surbiton
Sutton-in-Ashfield
Swadlincote
Swaffham
Swanage
Swanscombe
Swinton
Tanfield
Tarporley
Tavistock
Teddington
Teignmouth
Tetbury
Tettenhall
Thame
Thornton
Thurlstone
Thurnscoe
Thurstonland and Farnley Tyas
Tickhill
Tilbury
Tipton
Tonbridge
Torpoint
Tottington
Towyn
Trawden
Tredegar
Tring
Trowbridge
Turton
Tyldesley
Uckfield
Ulverston
Upholland
Urmston
Usk
Uttoxeter
Uxbridge
Ventnor
Walmer
Waltham-Holy-Cross
Walton-le-Dale
Walton and Weybridge
Wanstead and Woodford
Wantage
Warblington
Wardle
Ware
Warminster
Warsop
Washington
Watchet
Waterloo-with-Seaforth
Wath-on-Dearne
Wednesfield
Weetslade
Wellingborough
Wellington (Salop)
Wellington (Somerset)
Wells-next-the-Sea
Welwyn Garden City
Wembley
West Bridgford
Westbury
Westhoughton
West Mersea
Weston-super-Mare
Whickham
Whitby
Whitchurch
Whitefield
Whitley and Monkseaton
Whitstable
Whittlesey
Whitwood
Whitworth
Wigston Magna
Willenhall
Willington
Wilmslow
Wimborne Minster
Windermere
Winsford
Winterton
Wirksworth
Wirral
Witham
Withernsea
Withnell
Witney
Wivenhoe
Woking
Wolverton
Wombwell
Woodbridge
Woodhall Spa
Worsborough
Worsley
Yeadon
Yeardsley-cum-Whalley
Yiewsley and West Drayton

Rural Districts

Atcham
Berkhamsted
Bridge-Blean
Bury
Cheadle
Chester
Dover
Evesham
Hadham
Hereford
Hinckley
Hoo
Langport
Llanfyllin
Lothingland
Ludlow
Macclesfield
Malling
Masham
Midhurst
Plympton St Mary
Ripon
Selby
Shardlow
Tadcaster
Todmorden
Tutbury
Upton-on-Severn
Wakefield
Wellington

2. NORTHERN IRELAND

County Boroughs

Belfast
Londonderry

Boroughs

Bangor
Coleraine

Urban Districts

Armagh
Ballyclare
Ballymena
Ballymoney
Banbridge
Carrickfergus
Cookstown
Donaghadee
Downpatrick
Dungannon
Enniskillen
Holywood
Larne
Limavady
Lisburn
Lurgan
Newcastle
Newry
Newtownards
Omagh
Portadown
Portrush
Portstewart
Strabane
Warrenpoint

3. IRISH FREE STATE

All areas throughout the State.

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